

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business
as BOULEVARD BLACK ANGUS, also known as
BLACK ANGUS MEATS, also known as
BLACK ANGUS MEATS & SEAFOOD,
ROBERT SEIBERT,
DIANE SEIBERT,
KEEGAN ROBERTS,

Defendants.

Examination Before Trial of

THOMAS C. HOWELLS, taken pursuant to the Federal Rules of
Civil Procedure, in the law offices of GRECO TRAPP, PLLC,
1700 Rand Building, 14 Lafayette Square, Buffalo, New York,
taken on February 9, 2018, commencing at 9:36 A.M., before
VALERIE WHITE, Notary Public.

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6		Earnings Test for the years
7		2000-2018 from
8		http://www.ssagov/oact/cola/rtea.html dated February 8,
9		2018 (2pp.) (Not Bates)
10	266	OASDI and SSI Programs Rates &
11		Limits, 2005 (released October
12		2004) from
13		https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2005.html dated February 8, 2018
14		(2pp.) (Not Bates)
15	267	OASDI and SSI Programs Rates &
16		Liits, 2006 (released October
17		2005) from
18		https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2006.html date February 8, 2018
19		(2pp.) (Not Bates.)
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21		Limits, 2007 (released October
22		2006) from
23		https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2007.html dated February 8, 2018 (2
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1 APPEARANCES:

2 GRECO TRAPP, PLLC,
3 By JOSEPHINE A. GRECO, ESQ.,
4 and DANIEL PALERMO, ESQ.,
5 1700 Rand Building,
6 14 Lafayette Square,
7 Buffalo, New York 14203,
8 Appearing for the Plaintiff.

9 BARCLAY DAMON LLP,
10 By MEGAN E. BAHAS, ESQ.,
11 The Avant Building, Suite 1200,
12 200 Delaware Avenue,
13 Buffalo, New York 14202,
14 Appearing for the Defendants.

15 Present: Robert Seibert
16 Kaitlyn Lauberg, Legal Assistant.

17

18

19 (The following stipulations were entered
20 into by both parties.)

21 It is hereby stipulated by and between counsel
22 for the respective parties that the oath of the
23 Referee is waived, that filing and certification
of the transcript are waived, and that all
objections, except as to the form of the
questions, are reserved until the time of trial.

24

25 (Whereupon, an Exempt Amounts Under the
26 Earnings Test for the years 2000-2018 from

1 <http://www.ssagov/oact/cola/rtea.html> dated
2 February 8, 2018 (2pp.) (Not Bates) was then
3 received and marked as Exhibit 265,
4 an OASDI and SSI Programs Rates & Limits,
5 2005 (released October 2004) from
6 [https://www.ssa.gov/policy/docs/quickfacts/prog_
7 highlights/RatesLimits2005.html](https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2005.html) dated February 8,
8 2018 (2pp.) (Not Bates) was then received and
9 marked as Exhibit 266,
10 an OASDI and SSI Programs Rates & Liits,
11 2006 (released October 2005) from
12 [https://www.ssa.gov/policy/docs/quickfacts/prog_
13 highlights/RatesLimits2006.html](https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2006.html) date February 8,
14 2018 (2pp.) (Not Bates.) was then received and
15 marked as Exhibit 267,
16 an OASDI and SSI Programs Rates & Limits,
17 2007 (released October 2006) from
18 [https://www.ssa.gov/policy/docs/quickfacts/prog_
19 highlights/RatesLimits2007.html](https://www.ssa.gov/policy/docs/quickfacts/prog_highlights/RatesLimits2007.html) dated February 8,
20 2018 (2 pp.) (Not Bates) was then received and
21 marked as Exhibit 268,
22 a Nelson Schultz, Sr. Payroll
23 Pre-Checkwriting Report for pay period December

1 27, 2004-January 2, 2005 (1p.) (DEF0513) was then
2 received and marked as Exhibit 269,

3 a Nelson Schultz, Sr. W-2 Report 2005
4 (1p.) (DEF2708) was then received and marked as
5 Exhibit 270,

6 a Nelson Schultz, Sr. Payroll
7 Pre-Checkwriting Report for pay periods April 24,
8 2006-April 30, 2006 and May 1, 2006-May 7, 2006
9 (2pp.) (DEF1014;DEF1021) was then received and
10 marked as Exhibit 271,

11 a Nelson Schultz, Sr. W-2 Report 2006
12 (2pp.) (DEF2716-DEF2717) was then received and
13 marked as Exhibit 272,

14 a Nelson Schultz, Sr. Payroll
15 Pre-Checkwriting Report for pay periods January
16 1, 2007-January 7, 2007 and January 8,
17 2007-January 14, 2007 (2pp.) (DEF1267;DEF1274) was
18 then received and marked as Exhibit 273,

19 a Nelson Schultz, Sr. W-2 Report 2007
20 (2pp.) (DEF2727-DEF2728) was then received and
21 marked as Exhibit 274,

22 a Nelson Schultz, Sr. Payroll
23 Pre-Checkwriting Report for pay periods January

1 14, 2008-January 20, 2008 and January 28,
2 2008-February 3, 2008 (2pp.)(DEF1599;DEF1613) was
3 then received and marked as Exhibit 275,
4 a Nelson Schultz, Sr. Payroll
5 Pre-Checkwriting Report for pay period June 2,
6 2008-June 8, 2008 (1p.)(DEF1744) was then
7 received and marked as Exhibit 276,
8 a Nelson Schultz, Sr. W-2 Report 2008
9 (2pp.)(DEF2741-DEF2742) was then received and
10 marked as Exhibit 277,
11 a Christopher Howells Payroll
12 Pre-Checkwriting Report for pay period February
13 4, 2008-February 10, 2008 (1p.)(DEF1617) was then
14 received and marked as Exhibit 278,
15 a Christopher Howells W-2 Report 2008
16 (1p.)(DEF2735) was then received and marked as
17 Exhibit 279,
18 a Christopher Howells Payroll Pre-Checking
19 Report for pay periods October 26, 2009-November
20 1, 2009 and November 2, 2009-November 8, 2009
21 (2pp.)(DEF2267;DEF2274) was then received and
22 marked as Exhibit 280,
23 a Christopher Howells W-2 Report 2009

1 (1p.) (DEF2746) was then received and marked as
2 Exhibit 281,

3 a Christopher Howells W-2 Report 2010
4 (1p.) (DEF2760) was then received and marked as
5 Exhibit 282,

6 a Christopher Howells W-2 Report 2011
7 (1p.) (DEF2853) was then received and marked as
8 Exhibit 283,

9 a Christopher Howells W-2 2012
10 (1p.) (DEF2834) was then received and marked as
11 Exhibit 284,

12 a Christopher Howells Payroll Journal for
13 weeks ending 4/14/13 and 5/5/13 (DEF3216;DEF3225)
14 was then received and marked as Exhibit 285,

15 a Christopher Howells W-2 2013
16 (1p.) (DEF2818) was then received and marked as
17 Exhibit 286,

18 a Christopher Howells W-2 2014
19 (1p.) (DEF2807) was then received and marked as
20 Exhibit 287,

21 a Christopher Howells W-2 2015
22 (1p.) (DEF2784) was then received and marked as
23 Exhibit 288,

1 a Christopher Howells W-2 2016
2 (1p.) (DEF2774) was then received and marked as
3 Exhibit 289,
4 and a Christopher Howells Payroll Journal
5 for week ending 6/11/17 (DEF3824) was then
6 received and marked as Exhibit 290, for
7 identification.)

8

9 MS. BAHAS: Read and sign, thirty days.

10 MS. GRECO: In addition to that, we're paying our own
11 from our perspective.

12 MS. BAHAS: And we have a standing objection to that.

13

14 T H O M A S C. H O W E L L S,
15 152 West Grimsby Road, Buffalo, New York 14223,
16 after being duly called and sworn,
17 testified as follows:

18

19 EXAMINATION BY MS. GRECO:

20

21 Q. Good morning, Mr. Howells.

22 A. Good morning.

23 Q. I'm Josephine Greco and I represent Darcy Black

1 in an action against Black Angus Meats and the
2 owners. This is a deposition. Have you ever
3 been in one before?

4 A. Never.

5 Q. Have you ever been in any court proceeding
6 before?

7 A. Never.

8 Q. Some ground rules just to help you out and the
9 court reporter and me and everybody who reads the
10 transcript. As you answer questions, the court
11 reporter is going to take down everything you
12 say. The reason for that, if the time comes we
13 go to trial, you have a deposition that's typed
14 up, your testimony is typed up and that could be
15 used at trial or at other legal matters. So your
16 testimony is under oath, it's a Federal Court
17 proceeding, you're sworn to tell the truth. We
18 want to make sure that we have a good record,
19 that means that the transcript is accurate. The
20 best way for that to happen is, you have to make
21 oral responses. So the court reporter can't take
22 down a nod of the head or ah-huh, so you have to
23 articulate your answers whatever that might be;

1 yes, no, some explanation or something. Whatever
2 your answer is, it is, but you have to speak it.
3 All right?

4 A. Sure.

5 Q. In addition to that, it's hard for the court
6 reporter to take down what's being said if we
7 interrupt each other. So your job is to let me
8 ask the question, let me finish it and then you
9 listen to it and see if you can answer it. If
10 you don't understand it, let me know and I'll try
11 to rephrase it. The idea is for me to pose a
12 question, you to understand the question and then
13 answer to the best of your ability. All right?

14 A. Okay.

15 Q. Is there any reason you cannot testify truthfully
16 and accurately today?

17 A. There's no reason, no.

18 Q. Any medication you're on or anything that might
19 affect your testimony?

20 A. I take some pills but I don't think it's going to
21 affect anything I say or do.

22 Q. You can read with them and drive with them and
23 live your life with them?

1 A. Yes.

2 Q. Mr. Howells, what's your date of birth?

3 A. 11/24/41.

4 Q. 11 --

5 A. 24/41.

6 Q. How old are you today?

7 A. Seventy-six.

8 Q. And did there come a time when you retired for

9 Social Security purposes?

10 A. Yes.

11 Q. When was that?

12 A. When I was sixty-two.

13 Q. Which would be, for the record, 11/24/2003?

14 A. I don't remember the date or the year.

15 Q. But whatever it is, that's the year that you

16 retired. And when you retired, were you aware of

17 the income reduction rules relative to the

18 receipt of Social Security retirement and

19 earnings?

20 A. Yes, I was.

21 Q. Let me show you what's been marked as Exhibit

22 265. For the record, this is the Social Security

23 OASDI and SSI program rates and limits for the

1 year 2005 from the Social Security website. Do
2 you recognize this document?

3 A. No.

4 Q. Let me show you the second page -- actually the
5 first page. Do you see where it says earnings
6 test annual exemption amounts and it says under
7 full retirement age, twelve thousand dollars?
8 It's the first page. It's about six or seven
9 lines from the bottom on your way up. It says
10 earnings test annual exemption amounts.

11 A. Yes.

12 Q. Do you recall that in 2005, if you were retired
13 for Social Security purposes and you earned less
14 than twelve thousand dollars, you would not have
15 to be taxed on the money?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. Strike that. If you were retired for Social
19 Security purposes and you earned less than twelve
20 thousand dollars, you would not have to pay
21 anything back to Social Security, is that true?

22 A. I wasn't familiar with any of that because I
23 worked a little part-time and whatever it was, it

1 was.

2 Q. So even though you retired at sixty-two, you have
3 no familiarity what the rules were?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: I know you could make so much, but it
6 wasn't that it bothered me.

7 BY MS. GRECO:

8 Q. Do you have any reason to believe that this
9 government document is inaccurate?

10 A. I have no reason to believe it is not at all, no.

11 Q. Let me show you what's been marked -- looking at
12 this Exhibit -- I'm sorry. See where it says
13 annual retirement earnings test exempt amounts?

14 A. Yes.

15 Q. You see from the years 2000 to 2018?

16 A. Yes.

17 Q. Do you also see there's something that says
18 higher amount?

19 A. Yes.

20 Q. Were you ever aware that if you earned more than
21 the higher amount after you had retired, that
22 there would be -- strike that. Were you ever
23 aware if you earned more than the lower amount,

1 for every two dollars you earned, you would have
2 to pay one dollar back?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: Yes.

5 BY MS. GRECO:

6 Q. Were you ever aware if you earned more than the
7 higher amount, for every three dollars you
8 earned, you would pay one dollar back?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: Yes.

11 BY MS. GRECO:

12 Q. So you were aware of that?

13 A. Yes.

14 Q. Let me show you what's been marked as Exhibit
15 266. For the record, this is the OASDI and SSI
16 program rates limit for 2005. I went to go back
17 to Exhibit 265, it was the exempt amounts under
18 the earnings test for the years 2000 to 2018 from
19 the Social Security website, okay. I think I
20 misstated that before and I want it to be clear.
21 Did you ever see that document before?

22 A. No.

23 Q. And again, for the earnings test annual exempt

1 amount for twelve thousand dollars for the year
2 2005, do you have any reason to believe that
3 that's not accurate?

4 A. No.

5 Q. Let me show you what's been marked as Exhibit
6 267. For the record, it is the OASDI and SSI
7 program rates and limits for the year 2006 from
8 the Social Security website and I'd like to refer
9 you to the portion that says earnings test annual
10 exempt amounts under full retirement age, twelve
11 thousand, four hundred and eighty dollars. Do
12 you see that?

13 A. Yes.

14 Q. Do you have any reason to believe that's not
15 accurate?

16 A. No.

17 Q. Let me show you what's been marked as Exhibit
18 268. For the record, this is an OASDI and SSI
19 program rates and limits for the year 2007 from
20 the SSA dock of websites and it indicates, look
21 at the document, that the earnings test annual
22 exempt amount under full retirement age was
23 twelve thousand, nine hundred and sixty dollars.

- 1 Do you see that?
- 2 A. Yes.
- 3 Q. Do you have any reason to believe that isn't
- 4 true?
- 5 A. No.
- 6 Q. For the record, what is your race?
- 7 A. My what?
- 8 Q. Your race.
- 9 A. I'm white.
- 10 Q. And you're a male, right?
- 11 A. Yes.
- 12 Q. Can you tell me about your educational
- 13 background? Did you go to high school in
- 14 Buffalo?
- 15 A. Yes, I did.
- 16 Q. Where did you go?
- 17 A. Bishop Fallon.
- 18 Q. Is that Fallon, F-A-L-L-O-N?
- 19 A. Yes.
- 20 Q. Is that South Buffalo?
- 21 A. No, it was on Main Street in Buffalo.
- 22 Q. Did you graduate high school?
- 23 A. No.

1 Q. Why not?

2 A. Because I didn't enjoy school.

3 Q. What were the circumstances under which you left
4 high school?

5 A. Why I left?

6 Q. Yes.

7 A. Because I wanted a car and my father said I can't
8 have a car unless you pay for it. So I quit
9 school, got a job, bought a car.

10 Q. How old were you when you quit school?

11 A. Seventeen.

12 Q. What was the last grade in school you completed?

13 A. I quit two months before my final exams in my
14 senior year.

15 Q. Up until then, were you passing?

16 A. Yes.

17 Q. Did you ever get a GED?

18 A. No.

19 Q. Did you ever attempt to get a GED?

20 A. No.

21 Q. Did you have any employment when you were in high
22 school before you left?

23 A. Yes. I used to -- I've always worked. When I

1 was twelve years old I worked for a meat market
2 delivering. I had paper routes.

3 Q. So let's talk about your last job you had before
4 you quit school.

5 A. I was working at a meat market delivering on
6 Saturdays.

7 Q. And what do you mean by delivering on Saturdays?

8 A. Deliver meat. I had a bicycle with a basket in
9 the front and I'd go to homes in the
10 neighborhood.

11 Q. Did you have any special training to be able to
12 deliver the meat?

13 A. No.

14 Q. And then when you graduated high school -- I'm
15 sorry, strike that. When you left high school,
16 what did you do employment-wise?

17 A. I got a job. I worked for Your Host Restaurant,
18 Sher-Del Foods. It was the same company, S-H-E-R
19 dash D-E-L, Foods.

20 Q. Where was that located?

21 A. 2646 Delaware.

22 Q. What position did you hold?

23 A. Well, when I started there, I was a meat grinder

1 and after a while, I was plant manager.

2 Q. So when you started there, you were a meat
3 grinder?

4 A. Correct.

5 Q. Is that something that you had to go to school
6 for?

7 A. No, they taught me there.

8 Q. Who taught you?

9 A. His name was Richard May.

10 Q. What position did he hold?

11 A. He was the manager at the time.

12 Q. Was he a butcher?

13 A. Yes, he was.

14 Q. How long did it take him to teach you to grind
15 meat?

16 A. Not that long.

17 Q. I'm a little Italian girl who made sausage as a
18 young kid.

19 A. Two, three weeks.

20 Q. So you would, if you taught someone to grind
21 meat, it takes two to three weeks?

22 A. Correct.

23 Q. Was it all types of meat or just one type of meat

1 that you learned how to grind?

2 A. Usually ground beef or pork. Other than that,
3 no, nothing else.

4 Q. What do you learn in grinding meat?

5 A. What do you mean?

6 Q. Do you have to have special skills before you can
7 learn to grind meat -- strike that. Before you
8 learned to grind meat, did you need any special
9 skills or they just taught you what you needed?

10 A. They taught me.

11 Q. And did that become your full-time job duties,
12 grinding meat after you were taught how to grind
13 it?

14 A. I was grinding meat and then I did orders up and
15 then I wanted to learn how to cut meat and they
16 taught me that.

17 Q. Just so I'm clear, grinding meat, then orders up?

18 A. I was doing orders for restaurants.

19 Q. Then you said a third thing. Grinding meat,
20 orders up --

21 A. And they taught me how to cut meat there.

22 Q. So we talked about grinding meat.

23 A. Correct.

1 Q. Just so we're clear, that's the actual grinding
2 of it? Did you learn anything else?

3 A. I used to take it back to the people that was
4 running the patty machines and I put the meat in
5 the patty machines and I did run patty machines,
6 not very often but I was capable of doing that.

7 Q. Anything else that went with grinding the meat?

8 A. No.

9 Q. Now, let's talk about orders up. What does that
10 mean?

11 A. We do orders for restaurants, so I would be
12 involved in that also.

13 Q. Can you tell me how you were involved in that?

14 A. If we had a ticket in front of us, something like
15 this, they want two of this, three of that, four
16 of that, we'd do it up and then our drivers would
17 deliver it.

18 Q. When you say do it up, do you mean you would
19 actually cut that meat or you would go and locate
20 the meat, pack it up?

21 A. Most of it was in the freezer, so we draw it out
22 of the freezer.

23 Q. If it wasn't in the freezer, what would you do?

1 A. Cut it.

2 Q. Were you able to cut it yourself at that time?

3 A. At that time, no.

4 Q. Who would cut it?

5 A. There were three or four other butchers there.

6 Q. Then you said there came a time when you learned
7 to cut meat.

8 A. Correct.

9 Q. Did you have any special school or training or
10 anything outside of the work site to learn how to
11 cut meat?

12 A. I learned from a couple of old timers.

13 Q. By that, you mean butchers?

14 A. Correct.

15 Q. How was it determined that you would learn to cut
16 meat?

17 A. Because I asked.

18 Q. Okay. And when you asked, who had the authority
19 to say yes or no that you would be able to do it?

20 A. Richard May.

21 Q. What was his position?

22 A. He was the manager, plant manager.

23 Q. And if he had said no, then you would not have

1 been able to learn?

2 A. I guess not. He didn't say no, so I couldn't
3 tell you.

4 Q. He was the ultimate decision-maker there at that
5 time?

6 A. Yes.

7 Q. And how long did it take you to learn to cut
8 meat?

9 A. Oh, quite a while. Two, three, four years to
10 learn how to cut everything. You learn every
11 day. You still learn.

12 Q. That's what I'm trying to find out. Was it they
13 would teach you one thing, you would do it and
14 then they teach you another thing or --

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. -- would it take you three years before you could
18 do any meat cutting on your own?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. I don't understand the industry, I'm trying to
22 find out from you. Go ahead.

23 A. Whatever we were working on, whether we were

1 cutting chickens up, you'd learn how to cut
2 chickens up. If we were cutting strip loins, you
3 learned how to cut strip loins. Just working
4 with the stuff, you learn how to do it.

5 Q. So at that time, was that your exclusive job,
6 meat cutting or were you doing it along with your
7 other duties and learning a little at a time?

8 A. No. When I started cutting meat, I stayed and
9 cut meat.

10 Q. So it was actually a change in job position for
11 you?

12 A. Correct.

13 Q. It was your understanding that you were being
14 trained -- strike that. Is there a difference
15 between a butcher and meat cutter back then?

16 A. No.

17 Q. Was it your understanding you were being trained
18 to become -- strike that. It was your
19 understanding that you were a meat cutter in
20 training?

21 A. Yes.

22 Q. Did you do any other jobs at Your Host
23 Restaurant?

1 A. I never worked for Your Host, Sher-Del Foods. We
2 were a commissary for Your Host Restaurants. It
3 was the same company. Sher-Del Foods and Your
4 Host was the same company.

5 Q. What's a commissary?

6 A. We had forty-one restaurants, so we would prepare
7 the food at the commissary for the forty-one
8 restaurants.

9 Q. So you were the core butcher shop, so to speak,
10 for those restaurants.

11 A. It was the same company. Sher-Del and Your Host
12 was one company.

13 Q. Okay. So more accurately then, it was Sher-Del
14 Foods that you worked directly with?

15 A. Correct.

16 Q. Did you perform any other jobs while you were at
17 Sher-Del Foods other than grinding, orders up and
18 cutting meat?

19 A. I was plant manager.

20 Q. Okay. When did you become plant manager?

21 A. To be honest with you, I couldn't tell you when.
22 Maybe five, six years after I started there.

23 Q. What year did you start there?

1 A. I started when I was eighteen, so.

2 Q. In approximately 1959 or 1960, would that be
3 generally accurate?

4 A. Yes.

5 Q. And you said approximately five years later,
6 approximately 1965 is when you were the plant
7 manager?

8 A. Approximately, yes.

9 Q. How did you become the plant manager?

10 A. Well, I showed an interest in most everything in
11 the plant and so we had a bakery and a kitchen
12 there. I didn't know how to bake and I didn't
13 know anything about the cooking in the kitchen,
14 but I was there every day and I overseen the
15 operation other than the meat room.

16 Q. You said you oversaw the operation other than the
17 meat room. Who oversaw the meat room?

18 A. Me, myself.

19 Q. Okay. I'm confused. So you oversaw the meat
20 room plus baking and cooking?

21 A. Correct.

22 Q. But you yourself never baked or cooked?

23 A. Correct.

1 Q. So other people under you performed those jobs.

2 A. Correct. There was a foreman in the kitchen and
3 a foreman in the bakery and I overseen them, like
4 I did the timecards and stuff like that.

5 Q. Did the foreman in the kitchen and bakery report
6 directly to you?

7 A. If they had a problem or something, yes.

8 Q. Who did you report to?

9 A. Richard May.

10 Q. And his position?

11 A. At that time, once I took manager, he was vice
12 president.

13 Q. Vice president?

14 A. Of the company.

15 Q. Some companies have multiple vice presidents. He
16 was exclusive vice president?

17 A. Correct.

18 Q. How long did you hold that position for?

19 A. Until we closed in '90.

20 Q. So you were there approximately twenty-five
21 years?

22 A. Yes.

23 Q. And you held that plant manager position that

1 whole time?

2 A. After the five, six years at first, yes.

3 Q. From 1965 --

4 A. When we closed, I was still plant manager.

5 Q. In 1990?

6 A. Correct.

7 Q. So, and again, was Mr. May still your boss at
8 that time?

9 A. Correct.

10 Q. Did the company close and reopen somewhere else
11 or just went out of business?

12 A. Went out of business.

13 Q. For the record, you were a plant manager for
14 twenty-five years, but actually worked for the
15 company almost thirty years?

16 A. Correct.

17 Q. As a plant manager, were you trained with regard
18 to the policies and procedures of the company?

19 A. Yes.

20 Q. And as the plant manager, did they have an
21 employee handbook?

22 A. Yes, they did.

23 Q. And were you familiar with the employee handbook?

1 A. Yes, I was.

2 Q. Was part of your job the responsibility to
3 enforce the policies in the employee handbook?

4 A. If someone came to me with a problem, yes, I
5 would take care if it, and if I couldn't take
6 care of it, I would go to Mr. May.

7 Q. If you observed someone violating the policies of
8 the company, would it have been your
9 responsibility to take action?

10 A. Yes.

11 Q. At that company, did individuals have assigned
12 work hours?

13 A. Yes.

14 Q. So were they given schedules?

15 A. Yes.

16 Q. Did you create those schedules?

17 A. Yes. Well, see, a lot of it the government
18 created too because we only could work from seven
19 to three-thirty free. Anything before seven or
20 after three-thirty we would have to pay the
21 government overtime, so we had a federal
22 inspector in our building all day.

23 Q. What do you mean you'd have to pay the government

1 overtime?

2 A. You get eight hours free with the government.

3 Anything before seven o'clock or after

4 three-thirty, you would have to pay overtime. So

5 we didn't want to pay overtime, so mostly

6 everything in the building was scheduled seven to

7 three-thirty.

8 Q. Were you ever faced with a situation where one or

9 more individuals was regularly late for work?

10 A. Yes.

11 Q. And what did you do in those circumstances?

12 A. Send them home for the day, number one. If it

13 happened once or twice, no, but if it was

14 persistent and then after a while we wouldn't

15 tolerate it, they'd be gone.

16 Q. As the plant manager, was it important for you to

17 have your work force there on time?

18 A. Yes, it was.

19 Q. As part of being a plant manager, did you ever

20 have to -- strike that. Do you know what

21 progressive discipline is?

22 A. Yes, we would do that.

23 Q. You had a policy at that company?

1 A. Yes, we did.

2 Q. Did you have a policy at that company for
3 progressive discipline?

4 A. Yes.

5 Q. Could you tell me what it was?

6 A. Three times and you were done.

7 Q. What does that mean?

8 A. If you were late like three times or you did
9 something three times, after the third time, you
10 were done.

11 Q. Did you enforce that policy?

12 A. Yes, we did.

13 MS. BAHAS: Let her finish her question before you
14 answer.

15 BY MS. GRECO:

16 Q. With regard to your work hours, were any breaks
17 provided for the employees, that would be breaks
18 whether it be any type of break including a lunch
19 break?

20 A. Yes.

21 Q. Can you tell me how that was at that company?

22 A. They would get a fifteen-minute break in the
23 morning, half hour for lunch and a fifteen-minute

1 break at usually two o'clock.

2 Q. And were they paid for those breaks?

3 A. The breaks they were, but not their lunch.

4 Q. And so would they clock out for their lunch?

5 A. No, because we fed them there, so they wouldn't
6 leave the building.

7 Q. Would they work while they ate?

8 A. No. We had a room bigger than this, a lunch
9 room.

10 Q. And was it your understanding the law required
11 they have thirty minutes to eat without
12 interruption?

13 MS. BAHAS: Object to the form.

14 THE WITNESS: Yes, they did.

15 BY MS. GRECO:

16 Q. As a plant manager, and you said you were
17 overseen by governmental inspectors, was it your
18 understanding that an employee was entitled to
19 their thirty minute lunch break and even though
20 you provided food, they would have a thirty
21 minute break?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. You can answer.

2 A. Yes.

3 Q. And the same thing with their fifteen minute
4 breaks, were they entitled to have those fifteen
5 minute breaks?

6 A. Yes.

7 Q. And were you responsible for enforcing and making
8 sure that that happened?

9 A. Yes. We would all go on a break at the same
10 time.

11 Q. Tell me how that worked.

12 A. Well, we had morning deliveries, okay. Once we
13 got our morning deliveries out, there was myself
14 or the other one would yell coffee, we'd all go
15 upstairs to the break room. We'd take our
16 fifteen minutes and we had a bakery right there,
17 so we'd have bake goods and coffee and that's the
18 way that would work. And lunch, we provided a
19 lunch every day. The girls in the kitchen would
20 cook something different every day. But their
21 pay was based on that too, that we fed them.

22 Q. Meaning you might not -- well, did you dock them?

23 A. No, no. I mean, once they got hired, they knew

1 coming in that we were going to feed them.

2 Q. And then they knew you were going to feed them
3 and you knew that thirty minutes that they were
4 free, they were going to be having their lunch?

5 A. Correct.

6 Q. And would the same thing happen, someone would
7 say lunch when it's ready and everybody go
8 together?

9 A. Every day we'd go at twelve o'clock.

10 Q. So from twelve to twelve-thirty?

11 A. Correct.

12 Q. With regard to your second break, how would that
13 happen, the coffee break?

14 A. It was two o'clock, you just took a break.

15 Q. Did you ever have any manager below you -- strike
16 that. When you were the plant manager, were you
17 the direct manager over the butcher shop portion?

18 A. Correct. I still worked in the butcher shop.

19 Q. So you were a working plant manager?

20 A. Correct.

21 Q. Meaning you worked in the butcher shop plus you
22 oversaw?

23 A. I mean, I worked in the butcher shop and there

1 were good people in the bakery and good people in
2 the kitchen. I didn't really have any headaches
3 so I didn't really have to go upstairs. I mean,
4 I did but I didn't have to.

5 Q. So if, for example, someone, the person that ran
6 the bakery would not allow their employees to
7 take a lunch break, would that have been
8 something you would have been responsible for
9 enforcing and making sure it happened?

10 A. Yes, but it never happened.

11 Q. But if it did, that would be your responsibility
12 to make sure the law was followed?

13 A. Yes.

14 Q. Did individuals take smoke breaks?

15 A. Yes.

16 Q. Did individuals take smoke breaks when you were
17 the plant manager at Sher-Del Foods?

18 A. Yes.

19 Q. And how did that work?

20 A. Smoked right up in the break room.

21 Q. And did they only take them at their fifteen
22 minute breaks or did they take them otherwise?

23 A. No, we didn't have a problem with that. They

1 took them on their breaks. We didn't have a
2 problem with that.

3 Q. So if someone wanted to smoke, they would smoke
4 during their fifteen minutes in the morning or
5 their thirty minute lunch or fifteen minutes at
6 the end?

7 A. Correct.

8 Q. Did your company work Monday through Friday?

9 A. And Saturdays too.

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. Strike that question, I'll ask a better question.
13 What was your normal workweek when you were the
14 plant manager at Sher-Del Foods?

15 A. Well, Monday through Friday, okay. But then if
16 we got busy or something like that, we'd have to
17 work on a Saturday, but we tried to stay away
18 from that, because again, we would have had to
19 pay the government.

20 Q. When you said paying the government, you mean
21 you'd have to pay time and a half to the
22 employees?

23 A. No. Time and a half to the employees plus pay

1 the government.

2 Q. What do you mean by pay the government?

3 A. You got forty hours a week from the government,
4 it's still that way today. You got forty hours a
5 week free. Anything after forty, you have to
6 pay. Like you want to bring an inspector in on a
7 Saturday, you have to pay him for four hours
8 minimum.

9 Q. So your shop had to have a government inspector
10 there?

11 A. You did not start in the morning unless the
12 government inspector was there.

13 Q. Is that because it was a commissary?

14 A. No. We were feeding a lot of people and it was
15 good, they were another set of eyes for you, it
16 was good to have them.

17 Q. When you said you were feeding a lot of people,
18 you mean through your restaurants?

19 A. Correct.

20 Q. So that was a requirement because you were the --
21 you described it as the commissary for all the
22 Your Host Restaurants?

23 A. Correct.

1 Q. So if you went over forty hours, you'd not only
2 have to pay time and a half to your employees,
3 you'd have to pay the government inspector to be
4 there too?

5 A. Correct.

6 Q. Were you trained as a plant manager with regard
7 to discrimination?

8 A. Yes.

9 Q. Were you trained as a plant manager with regard
10 to harassment?

11 A. Yes.

12 Q. Were you trained as a plant manager with regard
13 to a hostile environment?

14 A. Yes.

15 Q. Were you trained as a plant manager with regard
16 to retaliation?

17 A. Yes.

18 Q. And did you have any of those issues arise while
19 you were the plant manager at Sher-Del Foods?

20 A. To be honest with you, I can't recall any.

21 Q. Is that something you would have handled or you
22 would have passed up to your boss who was the
23 vice president of Sher-Del Foods or before that

1 when you were the --

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. Strike that. When you were the plant manager, if
5 there was an issue regarding discrimination,
6 harassment, retaliation, hostile work
7 environment, was that something that you as plant
8 manager would refer to the vice president of
9 Sher-Del Foods?

10 MS. BAHAS: Object to the form.

11 THE WITNESS: Yes. I would go to the vice president,
12 yes.

13 BY MS. GRECO:

14 Q. Did the company have a human resources department
15 on premises?

16 A. No.

17 Q. So all human resource matters were handled by
18 either the vice president or the plant manager?

19 A. Yes.

20 Q. How were individuals given time off at Sher-Del
21 Foods when you were the plant manager?

22 A. They asked for a day off, we give it to them.

23 There was no problem there.

1 Q. What if it was the day after Thanksgiving and
2 many of your employees asked for the day off,
3 would there have to be a determination as to who
4 was entitled to take it off?

5 A. No, because that really never happened. I mean,
6 people back when I worked there and everything,
7 they pretty much showed up for work every day.
8 They didn't ask for a lot of time off. It wasn't
9 a problem.

10 Q. Did your job duties include evaluating employees
11 when you were at Sher-Del Foods?

12 A. Yes.

13 Q. Can you tell me what the process was there for
14 evaluation of employees?

15 A. Well, what we would do, if an employee showed
16 interest or anything, we'd make, try to make meat
17 cutters out of them. I bet you I trained, when I
18 was there, five, six, seven kids. There's a
19 couple of them -- they were kids to me. There
20 were a couple of them who work for Tops today.

21 Q. And was the training the same way you received
22 it, they didn't have to have a special
23 background, just show an interest and you would

1 show them?

2 A. Correct.

3 Q. Did you have to get permission from anyone to be
4 able to train someone as a meat cutter?

5 A. Yes.

6 Q. Who did you have to get permission from?

7 A. Richard May.

8 Q. With regard to evaluating employees as to their
9 job performance, would that be done on a regular
10 basis? By that, I mean annually or biannually?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: Yes. See, we were a union shop, so
13 they would get their raises with the union. The
14 whole company was union.

15 BY MS. GRECO:

16 Q. When you say raises with the union, you mean --

17 A. So much this year, so much the next year.

18 Q. So it was set in the contract what their raises
19 would be?

20 A. Correct.

21 Q. And then this way it was applied across the board
22 to everyone regardless of their race or sex or
23 national origin?

1 A. Oh, yes. I mean, meat cutters would be in one
2 category, cooks in another, bakers in another,
3 the girls that worked in the restaurant or men
4 that worked in the restaurants, either/or.

5 Q. And did you ever train a woman to be a meat
6 cutter?

7 A. No.

8 Q. Did you ever train anyone other than a Caucasian
9 male to be a meat cutter?

10 A. Yes.

11 Q. Who?

12 MS. BAHAS: Is this during Sher-Del?

13 MS. GRECO: Yes.

14 THE WITNESS: His name was Eddie Brown. In fact, he
15 worked there, I bet twenty years.

16 BY MS. GRECO:

17 Q. And what was his race?

18 A. He was a black man.

19 Q. Was Richard May a white male?

20 A. Yes.

21 Q. You said there was an individual who headed the
22 bakery and another individual who headed the --

23 A. Kitchen.

1 Q. Kitchen. During the time you were the plant
2 manager, was it the same individual or did they
3 change?

4 A. It was the same.

5 Q. And the person who headed the bakery, can you
6 tell me the gender and race of the individual?

7 A. He was a white male.

8 Q. And the person that headed the kitchen, can you
9 tell me --

10 A. She was a white male.

11 Q. You mean female?

12 A. Female, I'm sorry.

13 Q. That's okay. You said that the amount of raises
14 were set in the union contract, but were there
15 evaluations done of employees?

16 A. Yes.

17 Q. And who would do the evaluations?

18 A. Richard May and myself.

19 Q. And what form did the evaluation take -- strike
20 that. How much were individuals evaluated?

21 A. I would say every six months.

22 Q. Was that done orally or in writing?

23 A. Orally.

1 Q. And how would that be done, would they be called
2 into a meeting with the two of you?

3 A. Yes.

4 Q. And if there were any job performance issues,
5 would they be addressed at that time?

6 A. Yes.

7 Q. Did you ever have individuals that were told they
8 had job performance issues and did not rectify
9 them?

10 A. No.

11 Q. So when you had those evaluations, if you told
12 someone they had a job performance issue, they
13 would rectify it?

14 A. Yes.

15 Q. With regard to individuals who showed up late
16 three times, for example, they would just be
17 fired?

18 A. Right.

19 Q. They wouldn't wait for the evaluation or anything
20 like that?

21 A. They'd be gone.

22 Q. How would an individual get a job at Sher-Del
23 Foods?

1 A. They'd put an application in.

2 Q. Would positions be advertised?

3 A. I don't think so. I mean, people would just come
4 in and put an application in. I don't think we
5 ever even put it in the newspaper. I'm not sure
6 though, but I don't think so.

7 Q. Did you ever remember posting a sign saying help
8 wanted or anything of that nature?

9 A. No.

10 Q. When an individual came in and applied for a job,
11 would they have an opportunity to do other jobs?

12 A. Yes.

13 Q. And if an individual showed initiative, for
14 example, showing an interest in doing other job
15 duties, is that something that would be important
16 to you as a plant manager?

17 A. Correct.

18 Q. Why would that be important to you?

19 A. They could do a little more, they're good
20 employees to have and you could give them more
21 stuff to do.

22 Q. When Sher-Del Foods closed, were you in a
23 position to take a retirement from the company?

1 A. No. I had no retirement.

2 Q. So the company didn't have a retirement plan?

3 A. No.

4 Q. Did the company have health insurance?

5 A. At first they didn't, but then after a while they
6 did.

7 Q. Can you tell me how the health insurance worked?

8 A. To be honest with you, I don't know, but it was
9 Blue Cross and Blue Shield. I don't remember how
10 it worked.

11 Q. Were you given the opportunity to participate in
12 it?

13 A. Yes.

14 Q. Was everyone given the opportunity to participate
15 in it?

16 A. Yes.

17 Q. All the benefits that were there, was everyone
18 given an opportunity to participate in it?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. Strike that. Was there any other benefit other
22 than health insurance? Was there sick time?

23 A. I don't think so, no.

1 Q. Was there vacation time?

2 A. Yes.

3 Q. What was vacation policy?

4 A. To be honest with you, I don't know. After so
5 many years you get a week. I don't know. I
6 don't remember exactly how it worked.

7 Q. Is that something that the company made the
8 employees aware of, what their vacation policy
9 was?

10 A. Oh, yes. It was in their union contract.

11 Q. Was that applied fairly to everyone?

12 A. Yes.

13 MS. BAHAS: Object to the form.

14 BY MS. GRECO:

15 Q. By that, I mean, if the rule was you had to work
16 a year to get a week vacation, then that's what
17 an employee would have to work?

18 A. Correct.

19 Q. And that's true regardless if they were a male, a
20 female, African American, Asian, whatever, is
21 that true?

22 A. Yes.

23 Q. Was there any special kind of disability

1 insurance other than the kind you get through New
2 York State that's required on employees?

3 A. I don't think so.

4 Q. Was there life insurance available as an employee
5 benefit?

6 A. I couldn't tell you.

7 Q. How were you paid at Sher-Del Foods, was it by
8 check or -- was it a computerized check or
9 written check or was it in cash?

10 A. They had a main office, probably ten or twelve
11 people that worked in the main office and our
12 checks would come out of the main office.
13 Everybody got paid by check.

14 Q. How would an individual be selected, for example,
15 to be a meat cutter?

16 A. To show some interest.

17 MS. BAHAS: At Sher-Del Foods?

18 BY MS. GRECO:

19 Q. Still Sher-Del Foods. The questions I've been
20 asking are about Sher-Del Foods, all right?

21 A. Correct.

22 Q. In that Sher-Del Foods, what were the job
23 categories that were associated with the butcher

1 shop portion?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. Strike that. Is that what you called -- you said
5 there was bakery. There was --

6 A. Kitchen.

7 Q. Kitchen, and what was the other one?

8 A. The meat room.

9 Q. The meat room, okay. What were the job titles
10 associated with the meat room at Sher-Del Foods?

11 A. We either had meat cutters or helpers or people
12 that ran the patty machine or the slicers.

13 Q. So what was a helper?

14 A. They'd get us stuff, put stuff away.

15 Q. Could a helper be trained to be a meat cutter?

16 A. I'm sure they could have, but to my knowledge, I
17 never trained one.

18 Q. But you could have?

19 A. If someone showed an interest, I would have.

20 Q. Okay. And how about a person that worked doing
21 padding?

22 A. Doing what?

23 Q. You said there was meat cutter, helper, padding

1 and slicers?

2 A. Patties, running a patty machine.

3 Q. Did you ever train anyone who ran the patty
4 machine?

5 A. Yes.

6 Q. And when the person was hired, did that person
7 previously work as a helper?

8 A. Usually they would start out there, yes.

9 Q. So what would be the progression relative to
10 being a meat cutter at Sher-Del Foods?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: Like I said, we didn't need that many
13 meat cutters. There were three or four of us.
14 It's not like, if you were there and you ran a
15 patty machine we were going to make you a meat
16 cutter. We didn't need that many, and the ones
17 we had, we were quite happy with. So it wasn't
18 like we were always bringing them, but I did
19 train about five or six people to be meat
20 cutters.

21 BY MS. GRECO:

22 Q. What I'm trying to find out is, what job did they
23 perform before, did you just hire them off the

1 street or were they actually working there
2 already when you got permission to train them?

3 A. We hired them off the street.

4 Q. So you never took someone who was a helper and
5 then went to work the patty machine and then said
6 they showed an initiative and then you decided --

7 A. Yes.

8 Q. That's what I'm trying to find out.

9 A. Correct.

10 Q. I thought you had said that you looked at their
11 initiative. If they had initiative, then you
12 would ask permission to be able to train them if
13 you needed a meat cutter?

14 A. Yes.

15 Q. Would those individuals start either as a helper
16 or doing patties or on the slicer or some
17 combination?

18 A. Correct.

19 Q. Then they would be, if they had the initiative
20 and desire, could become a meat slicer if you
21 needed it?

22 A. Yes.

23 Q. I'm sorry. You know I meant, meat cutter?

1 A. Yes.

2 Q. And not a slicer.

3 A. Yes.

4 Q. So what did you do after you left Sher-Del Foods
5 in approximately 1990?

6 A. I went to work for Isenberg Meats.

7 Q. I think that's Andrew Isenberg's father's
8 company?

9 A. It was. Andy used to come in there.

10 Q. How long did you work at Isenberg Meats?

11 A. To be honest with you, I couldn't tell you, but
12 U.S. Foods bought them out and everybody that
13 worked for Isenberg went to U.S. Foods.

14 Q. So approximately how long did you work for
15 Isenberg Meats?

16 A. Oh, I would say, seven, eight, nine, ten years
17 maybe.

18 Q. And then is that when it was bought out by U.S.
19 Foods?

20 A. Correct. I don't know the exact dates or
21 anything, but it was bought out by U.S. Foods.

22 Q. And you said you were there seven to ten years at
23 Isenberg Meats, then it was bought out by U.S.

1 Foods, and then did you work for U.S. Foods?

2 A. Yes, that's where I retired from.

3 Q. How long did you work at U.S. -- strike that.

4 When did you retire?

5 A. I was sixty-two.

6 Q. So assuming that you were sixty-two on November

7 24th, 2003, that would have been when you

8 retired?

9 A. Correct.

10 Q. Again, using your approximate dates, if you

11 started working for Isenberg Meats in

12 approximately 1990, you would have worked there,

13 you said, approximately seven to ten years from

14 1990 to 1997 or 2000, and if you retired in

15 November in, approximately November 24th of 2003,

16 you would have worked for U.S. Foods for

17 approximately three to five years?

18 MS. BAHAS: Object to the form.

19 BY MS. GRECO:

20 Q. You can answer.

21 A. Correct.

22 Q. Was that about right?

23 A. Yes. The only thing I can tell you, I don't know

1 dates, but the only thing I know, I retired when
2 I was sixty-two.

3 Q. Did Isenberg Meats have a retirement plan?

4 A. They had a 401-K, but I wasn't really -- I didn't
5 have much in it.

6 Q. And then how about U.S. Foods?

7 A. Greatest company in the world to work for. They
8 had everything.

9 Q. Let's go back to Isenberg Meats. Who was the
10 head of Isenberg Meats?

11 A. Mort and Freddie Isenberg.

12 Q. What position did Freddie Isenberg hold?

13 A. He ran the meat room and Mort ran the office, and
14 Freddie also was a meat cutter. He'd cut meat
15 all day.

16 Q. And what position did you hold at Isenberg Meats?

17 A. I was a meat cutter only.

18 Q. How many meat cutters did they have?

19 A. About six.

20 Q. Were there any policies, procedures at -- strike
21 that. Were there -- strike that. Was Isenberg
22 Meats a butcher shop?

23 A. Yes.

1 Q. And what job positions did it have at Isenberg
2 Meats?

3 MS. BAHAS: Object to the form.

4 BY MS. GRECO:

5 Q. You can answer.

6 A. Well, they had meat cutters there and they had
7 people that did orders up and they had people
8 that run roll stock machines.

9 Q. Roll stock?

10 A. Correct. They would take a steak and they would
11 cryofract each steak and it would go out in boxes
12 all cryofract, so you'd have shelf life with it.

13 Q. Any other positions?

14 A. They had some office people.

15 Q. How was the meat delivered?

16 A. Semis.

17 Q. So who would pack the trucks?

18 A. No. You said how was it delivered. They deliver
19 to our place in semis.

20 Q. How did your place deliver it? How did Isenberg
21 Meat distribute its food?

22 A. In trucks.

23 Q. How did the food get into the trucks?

1 A. The people that were putting orders up, there's
2 maybe four or five people doing orders up, they
3 would load the trucks.

4 Q. Would they pack the meats?

5 A. After we cut them -- we'd have an order for say
6 this restaurant and we would send it back to the
7 roll stock machine. Everything got roll stocked.
8 Then it went in the cooler and then they would
9 get the order form and they would -- like if
10 somebody wanted twenty strip steaks or ten
11 fillets or something, they would go in and do the
12 orders up and pack them.

13 Q. So the people who ran the roll stock machine were
14 the people who took the place of wrappers in the
15 butcher shop, is that true?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: Yes.

18 BY MS. GRECO:

19 Q. Meat comes in and then the meat cutters cut the
20 meat?

21 A. Correct. We didn't wrap anything.

22 Q. It would then go to the roll stock people that
23 ran the roll stock machine?

1 A. Correct.

2 Q. And the meats would be wrapped by the machine, so
3 to speak?

4 A. Correct.

5 Q. Then they would be placed from there in freezers?

6 A. Correct, or coolers.

7 Q. Or coolers. Then the individuals would pack
8 those pursuant to the orders?

9 A. Correct.

10 Q. Then those people that packed it would also put
11 it on the truck?

12 A. Correct.

13 Q. And when you were employed there as a meat
14 cutter, were there any other individuals that
15 were hired after you were hired as a meat cutter?

16 A. Yes.

17 Q. Now we're only on Isenberg Meats.

18 A. Correct.

19 Q. Did you train any of them?

20 A. No. You didn't get trained at Isenberg. You
21 came in qualified or he wouldn't take you.

22 Q. That selection process was done by Fred Isenberg,
23 correct?

1 A. Correct. You had to take a test when you went in
2 there.

3 Q. What would the test entail, what would you have
4 to be able to do?

5 A. Cut a tenderloin up, portion it to certain sizes,
6 or you'd have to do a prime rib and fabricate it.
7 That's the only way you got the job there.

8 Q. What do you mean by fabricate it?

9 A. It would come in in a bigger piece and you'd
10 break it down to a smaller piece for a
11 restaurant.

12 Q. Did they have any policies, procedures at
13 Isenberg Meats?

14 A. I don't know if they had any policies or
15 procedures or anything, but they took no bull. I
16 mean, I never had a problem with them, but
17 whatever happened, if something happened, people
18 would go in the office. I never heard an outcome
19 so I wouldn't know.

20 Q. Did they have an employee handbook?

21 A. No.

22 Q. Did they have individuals that were routinely
23 late for work -- strike that. Did they have

1 individuals who were late for work on more than
2 three occasions?

3 A. No.

4 Q. Why not?

5 A. Because they wouldn't tolerate it.

6 Q. Would it be disruptive to you as a meat cutter if
7 individuals were arriving to work late?

8 A. It wouldn't bother me because I had my job to do
9 and if this guy wasn't there or this guy, it
10 wouldn't bother me, no.

11 Q. If meat had to be wrapped and the people that
12 were running the wrapper machines didn't show up
13 on time, would that affect the meat cutter?

14 A. Freddie Isenberg would go back there and wrap.

15 Q. So it would affect him directly?

16 A. Yes.

17 Q. And he wouldn't tolerate it?

18 A. No.

19 Q. Were there employees' benefits at Isenberg Meats?

20 A. We got a vacation. Other than that, no. You
21 didn't get sick days, no, nothing like that.

22 Q. Was there health insurance available?

23 A. Yes, I think there was, yes.

1 Q. Were you allowed to participate in it?

2 A. Yes.

3 Q. Was everyone allowed to participate in it?

4 A. Yes.

5 Q. With regard to schedules, who would make the
6 schedules?

7 A. It was -- there was really no schedules made.
8 Again, that's federal meat inspection. It was
9 seven to three-thirty Monday through Friday, no
10 Saturdays at all.

11 Q. And did individuals arrive for work on time?

12 A. Yes.

13 Q. If they didn't, it was addressed?

14 A. They just didn't do it.

15 Q. And they would work till three-thirty, were there
16 any breaks given at Isenberg Meats?

17 A. Yes. We had a break in the morning. We had half
18 hour break at lunch, and they would lock the
19 door, you don't get in. If we went out, we
20 couldn't get in till twelve-thirty in the
21 building.

22 Q. What about an afternoon break, was there an
23 afternoon break?

1 A. I don't think so.

2 Q. You think there was a fifteen minute morning?

3 A. In the morning we got a twenty or twenty-five
4 minute break. Because once we came back from
5 lunch, we were only there for a couple more
6 hours, three hours more.

7 Q. So you would have a twenty to twenty-five minute
8 break in the morning?

9 A. Correct.

10 Q. And a half hour lunch?

11 A. Correct.

12 Q. And everybody goes to lunch at the same time?

13 A. Correct.

14 Q. And you said they locked the door if you went
15 out?

16 A. Yes. They had a lunch room there which you could
17 eat if you brought something, but most of us
18 guys, especially in the summer, we would sit
19 across the street in our cars and have our lunch,
20 we'd leave the building.

21 Q. And then you come back in --

22 A. The door didn't get open until twelve-thirty.

23 Q. And what about the morning break, the one --

1 A. Most everyone -- we didn't have much time so we
2 stayed right there inside.

3 Q. But you were allowed to take a break?

4 A. Yes, everyone took a break.

5 Q. And when you took a break, you were on your
6 break, you weren't interrupted by the company?

7 A. Never.

8 Q. And they had a meat inspector on premises?

9 A. Government meat inspector, yes.

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. Government meat inspector?

13 A. He had an office right in the building.

14 Q. Was there a union at Isenberg Meats?

15 A. No.

16 Q. I didn't ask you, how many employees were there
17 at --

18 A. Sher-Del?

19 Q. Yes, Sher-Del.

20 A. When we were going strong in our building, we
21 probably had sixty employees.

22 Q. And at Isenberg Meats, approximately how many
23 employees?

1 A. Twenty at the most.

2 Q. At Isenberg Meats, did they cut deer?

3 A. No.

4 Q. At Sher-Del Foods, did they cut deer?

5 A. Yes.

6 Q. When they did deer, was that done during the
7 normal seven to three-thirty time?

8 A. No, never.

9 Q. When was the deer done?

10 A. At night.

11 Q. Can you tell me how that was done?

12 A. We had a separate room off to the side with a
13 cooler and we cut the deer in there, but we
14 didn't do many. If we did thirty a year, that
15 was a lot. We did them mostly for friends and I
16 don't think we ever charged anybody. It was just
17 for friends, mostly my friends.

18 Q. So at Sher-Del, did you have to keep the deer
19 processing and cutting and butchering separate
20 from the meat?

21 A. It was separate, yes.

22 Q. Why does it have to be separate?

23 A. First of all, you can't have hair in the

1 building, in the processing area, you can't have
2 hair.

3 Q. Anything else?

4 A. No.

5 Q. Is there -- can you use the same tables and the
6 same room to package deer meat as you used to
7 package other meat other than deer meat?

8 A. No.

9 Q. Why not?

10 A. Well, first of all, everything we worked on at
11 Sher-Del Food, it had to be government inspected
12 and deer processing is not government inspected.

13 Q. So what does that mean? What I'm trying to think
14 is, if you worked seven to three and you did
15 processing of regular meats, non-deer meat and
16 then you wanted to do the thirty deer a year that
17 are done, would you -- would they be wrapped in
18 the same rooms that the regular meat was wrapped?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: No, all separate. See, you couldn't do
21 it in that room, number one, is because -- we
22 used to break all our own beef in there. We used
23 to have the swinging beef in there and you

1 couldn't have the deer in there with the swinging
2 beef. The meat inspector, he would just close
3 you up. You just don't do stuff like that under
4 the federal government, you just don't do it and
5 you don't even try to do it.

6 BY MS. GRECO:

7 Q. Was there any law at that time about that you had
8 to give the hunter back the exact meat that they
9 gave you?

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. Do you understand what I'm saying? If I came in
13 with a deer and the court reporter came in with a
14 deer and we brought it in to you, would you have
15 to give the court reporter back her deer and give
16 me back my deer? By that I mean, could you give
17 me her deer meat?

18 MS. BAHAS: Object to the form.

19 BY MS. GRECO:

20 Q. You can answer.

21 A. When you bring your deer in to us, you fill out
22 an order form and what you want and that order
23 form stays with the deer.

1 Q. We're talking about Sher-Del now.

2 A. Both places.

3 Q. Sher-Del now.

4 A. Yes, and that would stay with the deer. When you
5 picked your deer up when it was done, you would
6 have your ticket back. So I have no reason to
7 give you her deer or vice-versa.

8 Q. Did you make sausage at Sher-Del out of deer
9 meat?

10 A. Correct.

11 Q. So how would you ensure you were giving me my
12 deer meat back in sausage and the court reporter
13 hers back in sausage?

14 A. If you wanted ten pounds of sausage when I'm
15 doing your deer, I would do your ten pounds of
16 sausage.

17 Q. You wouldn't comingle it?

18 A. No.

19 Q. What was your understanding -- you know what I
20 mean by comingle, add her deer meat to mine for
21 purposes in making sausage?

22 A. I just wouldn't do it, it isn't right.

23 Q. Is that in violation of law, if you know, as a

1 butcher?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: I don't know if it is or not. I

4 couldn't tell you, but I have no reason to give

5 you hers or vice-versa. I have no reason. Why

6 would I want to do that.

7 BY MS. GRECO:

8 Q. So you're saying it's not an issue to make

9 sausage out of the persons own deer meat?

10 MS. BAHAS: Object to the form.

11 THE WITNESS: No.

12 BY MS. GRECO:

13 Q. Did you make deer jerky at Sher-Del Foods?

14 A. No.

15 Q. Is it hard to make deer jerky?

16 A. You have to have a smoker. We didn't have a

17 smoker.

18 Q. Did you use the same grinders for deer meat as

19 you did for other meats at Sher-Del Foods?

20 A. No.

21 Q. Why not?

22 A. We didn't have to. We had separate grinders.

23 Q. Was there anything that said you couldn't mix the

1 two meats, meaning you couldn't use the same
2 grinder for deer meat and non-deer meat?

3 A. When we got through at three-thirty in our room
4 at Sher-Del, we had a cleanup crew come in and
5 clean. So I didn't want to hold them up. So we
6 would be in a separate room doing the deer.

7 Q. And you said you didn't think that people were
8 charged. Did people just volunteer to do it?

9 A. I cut them and another friend of mine, we cut
10 them, we got a few dollars, maybe twenty-five,
11 thirty dollars. This was a long time ago.

12 Q. What I'm trying to find out, if you got a few
13 dollars, did that go to Sher-Del or did Sher-Del
14 allow you to use the room?

15 A. Yes, they allowed me to use their room.

16 Q. So you said you did approximately thirty deer.

17 A. If that many.

18 Q. And you said -- who would be involved in the
19 processing, you or anyone else or just you?

20 A. One friend of mine, Donnie Schwartz.

21 Q. Did you ever ask Freddie Isenberg or Mort
22 Isenberg if you could do deer meat on their
23 premises?

1 A. I wasn't that dumb.

2 Q. Why?

3 A. You just wouldn't do that, okay. If you know
4 Freddie and you know Mort, you just wouldn't do
5 that. First of all, they'd have you committed.

6 Q. Why would they have you committed?

7 A. Because you're asking something that you know the
8 answer already.

9 Q. How about if you wanted time off at Isenberg
10 Meats, how would you request that?

11 A. You would just ask him. Like as far as vacations
12 or something like that, like a week before and a
13 week after the holiday it was a no-no, don't even
14 ask because you're not going to get it. Other
15 than that, if you wanted a day or something, you
16 just ask them.

17 Q. Are you a hunter?

18 A. No.

19 Q. When you stopped working at Sher-Del Foods, did
20 you stop cutting meat for friends?

21 A. Oh, yes. I had no place to do it.

22 Q. Then you said at some point, whatever you
23 testified to, U.S. Foods bought Isenberg Meats.

1 A. Correct.

2 Q. And what happened when U.S. Foods bought Isenberg
3 Meats as far as your position?

4 A. They took every employee from Isenberg to U.S.
5 Foods and I was a meat cutter there too.

6 Q. Did you hold any position other than meat cutter
7 there?

8 A. No.

9 Q. Did you have any supervisory role at any of the
10 places you worked up to U.S. Foods, meaning
11 through U.S. Foods?

12 A. Never.

13 Q. Other than the original employer you had where
14 you were the plant manager?

15 A. Never.

16 Q. So just the plant manager when you were a
17 supervisor for all those years?

18 A. Correct.

19 Q. Did they have any employment benefits at U.S.
20 Foods?

21 A. Yes.

22 Q. What benefits do you recall?

23 A. They had 401-K. They had dental, they had health

1 insurance, vision, five sick days, personal days,
2 two or three, I'm not sure, plus vacation. I'm
3 not sure how it worked, but when I left there, I
4 believe I was getting three weeks.

5 Q. And were you given an employee handbook?

6 A. No.

7 Q. How did you find out about these benefits?

8 A. When you got hired there, you went in the office.
9 In fact, it was Irv Isenberg, he was there too
10 and you would go in and sit with him and he'd
11 spend four or five hours with you explaining
12 everything.

13 Q. What position did Irv Isenberg hold?

14 A. At U.S. Food?

15 Q. No. Did Irv Isenberg hold any position at
16 Isenberg Meats?

17 A. Freddie was the boss, Freddie and Mort and Irv
18 was there.

19 Q. But you didn't deal with him at Isenberg Meats or
20 did he go through your benefits at Isenberg Meats
21 too?

22 A. No, I didn't have to deal with Irv.

23 Q. So did Irv Isenberg assume a position at --

1 strike that. Did Irv Isenberg get a position at
2 U.S. Foods after U.S. Foods purchased Isenberg
3 Meats?

4 A. Yes.

5 Q. What position --

6 A. They all did. Freddie went there and so did
7 Mort.

8 Q. What was Freddie Isenberg's position?

9 A. I don't know. If we had a problem, we went to
10 Freddie. Us guys from Isenberg, if we had a
11 problem, we went to Freddie. What his position
12 was, I don't know, but he handled whatever we
13 brought to his attention. Mort stayed in the
14 office and so did Irv stay in the office.

15 Q. Okay. So is it fair to say when you went to U.S.
16 Foods, Irv Isenberg sat down with you and told
17 you about all the benefits that could be
18 available to you?

19 A. He gave us the rules on how U.S. Foods works.

20 Q. So other than benefits, did he talk to you about
21 work rules?

22 A. Yes.

23 Q. Did you have a U.S. -- strike that. What was the

1 title of that person again?

2 A. Federal meat inspector.

3 Q. Did you have a federal meat inspector at U.S.
4 Foods also?

5 A. Yes.

6 Q. What were your hours of work at U.S. Foods?

7 A. Seven to three-thirty.

8 Q. Was that Monday to Friday?

9 A. Yes. No Saturdays at all.

10 Q. Did you work Saturdays at Isenberg Meats?

11 A. No, never.

12 Q. And were you given any break at work during the
13 day at U.S. Foods?

14 A. Yes.

15 Q. When were they?

16 A. You had a twenty minute break in the morning.

17 You would have a half hour lunch and you would
18 have a fifteen minute break in the afternoon.

19 Q. Were you paid for your lunch break?

20 A. No, I don't think so, no.

21 Q. Did you punch in and out or were there no
22 timecards?

23 A. There was timecards. Well, you punched in in the

1 morning and punched out at night.

2 Q. Did you have to punch out at lunch?

3 A. No.

4 Q. You were just docked for -- strike that. If you
5 came in at seven and left at three-thirty --

6 A. You'd get paid for eight hours.

7 Q. Your timecard would physically show an eight and
8 a half hour period but you'd be paid for eight
9 hours?

10 A. Correct.

11 Q. How many employees were at U.S. Foods location --
12 strike that. Was U.S. Foods a bigger company
13 than just the area -- strike that. When U.S.
14 Foods bought Isenberg Meats, did that become a
15 location for U.S. Foods?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. Do you understand what I'm saying?

19 A. Well --

20 Q. One of their plants or one of their meat markets
21 or whatever you call it?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. Strike that. Can you explain to me what was the
2 result of U.S. Foods taking over Isenberg Meats?

3 A. It doubled their business.

4 Q. But were you still at the same location?

5 A. No. We were on Lake Avenue in Blasdell.

6 Q. Did U.S. Foods have a location in Buffalo prior
7 to taking over Isenberg Meats?

8 A. They had -- I forget the name of the company, but
9 there was a company, I believe it was downtown.
10 I can't think of it. And then they built this
11 building, U.S. Foods, brand-new state of the art
12 building, and then this one meat company that
13 they bought out went in this building and then we
14 went in the building. And if you bought meats at
15 a restaurant or anything like that, you bought
16 from Isenberg, because they had the black angus
17 program. The black angus program worked at --
18 it's a mile radius. I think the next black angus
19 plant would be like ninety miles away. So you
20 had to buy from Isenberg, but they were great
21 people to do business with. They were honest,
22 they were good people.

23 Q. And so U.S. Foods bought it so they could have

1 that ability --

2 A. That black angus program.

3 Q. U.S. Foods bought it so they could be able to
4 provide the black angus meats within that ninety
5 mile radius?

6 A. Correct.

7 Q. Did the two prior companies that U.S. Foods took
8 over, Isenberg Meats and the other company, did
9 the employees intermix or were they run as
10 basically two shops within the U.S. Foods
11 company?

12 A. One shop.

13 Q. So you intertwined with the other employees?

14 A. Correct.

15 Q. And how many people worked when you were at U.S.
16 Foods?

17 A. I would say in the whole plant, there was
18 probably forty, forty-five people.

19 Q. Did you receive any training regarding
20 discrimination, harassment, retaliation or
21 hostile work environment while working for U.S.
22 Foods?

23 A. Yes.

1 Q. What type of training did you receive?

2 A. From Irv Isenberg, he went over everything with
3 us.

4 Q. And why did you retire?

5 A. Because I didn't want to work any longer
6 full-time.

7 Q. At the time that you retired, other than Social
8 Security retirement, did you have any other
9 retirement that you were receiving?

10 A. I had some IRA's and stuff like that.

11 Q. But other than that, did you have any regular
12 retirement from a company?

13 A. From U.S. Foods, I got a pension from there,
14 which I'm still getting.

15 Q. That was based on your approximate --

16 A. They even went back to my years with Isenberg.
17 They picked all our years up too.

18 Q. So when they took over Isenberg Meats, they
19 assumed --

20 A. So if I had nine years in at Isenberg, I had nine
21 years in when I started there with U.S. Foods.

22 Q. So you received a pension based on your service
23 not only at U.S. Foods but also at Isenberg

1 Meats.

2 A. Correct. But I don't believe I got that until I
3 was sixty-five. I didn't get it at sixty-two.

4 Q. Is it because you chose not to take it at
5 sixty-two or you needed to meet so many years?

6 A. It could have been. I didn't choose it, but it
7 had to be so many years.

8 Q. So you weren't entitled to take it until you hit
9 a certain age or had so many years of service?

10 A. Yes.

11 Q. So you couldn't take it until you were
12 sixty-five?

13 A. Yes.

14 Q. At U.S. Foods, were individuals allowed to be
15 late for work?

16 A. Sometime they would come in late but they
17 wouldn't tolerate it.

18 Q. Tell me what you mean by that.

19 A. All of a sudden they'd come in late, once, twice,
20 something like that and then you wouldn't see
21 them anymore. What got said or what happened, I
22 couldn't tell you, but they weren't there.

23 Q. And when you went to U.S. Foods, were the breaks

1 taken at the same time, everybody took them at
2 the same time or were they done at different
3 times?

4 A. No. Lunch was taken at different times because
5 there was too many of us for the lunch room, so
6 some would go at twelve and twelve-thirty,
7 something like that.

8 Q. But were you allowed to take the thirty minute
9 lunch break?

10 A. Oh, sure.

11 Q. And with regard to the two other breaks, you said
12 there was a twenty minute break and a fifteen
13 minute break, were they regularly scheduled or
14 did you take them as you needed them?

15 A. No. Everything was scheduled. You didn't do as
16 you needed anything there.

17 Q. During your twenty minute break, were you allowed
18 to have your twenty minute break?

19 A. Oh, sure.

20 Q. Is there a union at U.S. Foods?

21 A. There's a union at U.S. Foods, but where I
22 worked, there was no union. I worked for
23 Stockyard Meats, okay. They changed the name of

1 it to Stockyard. It was still U.S. Foods. My
2 paycheck came from U.S. Foods but there was no
3 union there, but U.S. Foods is all union, if that
4 makes sense.

5 Q. All right. Just so I'm clear. Isenberg Meats
6 was purchased by U.S. Foods but called Stockyard
7 Foods?

8 A. Stockyard Meats. That's what it's still called
9 today.

10 Q. And when you retired, was Freddie Isenberg still
11 at the helm?

12 A. No.

13 Q. He had retired before you?

14 A. They forced him out.

15 Q. When did they force him out?

16 A. He was only there maybe a couple years. Mort
17 didn't last that long.

18 MS. GRECO: Do you want to take a break now?

19 Under the rules, once a witness starts to
20 testify, they cannot talk about their testimony
21 with anyone until they finish their testimony and
22 then you can do what you choose, but we would ask
23 you to follow that rule. And I have a question,

1 are you representing him personally?

2 MS. BAHAS: Yes.

3 MS. GRECO: Okay.

4 (Whereupon, a short recess was then taken.)

5 BY MS. GRECO:

6 Q. Now, up until the time you retired, did you work
7 anywhere other than the places you told me?

8 A. No.

9 Q. So after you retired from U.S. Foods, which was
10 called Stockyard Meats, did you ever work after
11 that?

12 A. Just for Bob.

13 Q. So when did you begin working -- well, where was
14 it that you worked and when did you start working
15 there?

16 A. I couldn't tell you the year, I don't know. I
17 maybe started six months after, a year after. I
18 really don't know.

19 Q. So you understand, we were given some documents
20 as part of this lawsuit from Black Angus Meats,
21 and when we were given them, any time we're
22 getting a document from them, if it says DEF with
23 a number, 0033, that means that document was

1 provided us by Defendant, that's Black Angus
2 Meats, etcetera. And that's the number, meaning
3 that's number a hundred-thirty-three, there's a
4 hundred-thirty-two documents ahead of it and more
5 after it. So from these documents we learn
6 certain information, so I have questions.

7 Do you recall starting to work at Black
8 Angus Meats in 1999?

9 A. If that's what the documents say, yes.

10 Q. Let me show you Exhibit 209, which is a document
11 that was provided to us by Defendant. You see
12 the number on the bottom DEF0049. This was
13 provided by Defendant to the EEOC, which is the
14 federal agency involved in this case. And
15 because they have not given us all employment
16 records, this is a document that we have that
17 tells us when you started working there. If you
18 go to the second page, which is Bates number,
19 that's the number on the bottom, DEF0050, it
20 says -- do you see where your name as Tom
21 Howells, is that how you say it?

22 A. Yes.

23 Q. It says race, Caucasian.

1 A. Correct.

2 Q. Gender, male.

3 A. Correct.

4 Q. Date of hire, 8/15/99.

5 A. Correct.

6 Q. So my question to you is, does that help you
7 remember that you started working there in 1999?

8 A. It doesn't help me remember, but if Diane
9 submitted this, she's very thorough, I would say
10 that's it.

11 Q. Does that help you recall that you were working
12 there before you retired from U.S. Foods also
13 known as Stockyard Meats?

14 A. Yes.

15 Q. You recall now working there before you stopped
16 working at Stockyard Meats?

17 A. Correct.

18 Q. Were you working at Isenberg Meats when you
19 started working at Black Angus Meats also or was
20 it already U.S. -- strike that. When you started
21 at Black Angus Meats, were you also working at
22 Isenberg Meats or at U.S. Foods slash Stockyard
23 Meats?

1 A. No, U.S. Foods.

2 Q. And it says here that your starting pay rate was
3 fifteen dollars an hour. Do you recall that
4 being accurate?

5 A. No, I don't know what I was making then. I
6 couldn't even tell you what I'm making now to be
7 honest.

8 Q. Do you know what you were last making when you
9 worked at U.S. Foods?

10 A. Probably seventeen, eighteen dollars an hour.

11 Q. Let me show you what's been marked as Exhibit
12 141, which for the record is the W-4 paren, 1998
13 paren, employee withholding allowance certificate
14 signed by Thomas C. Howells on the first page
15 which is Bates DEF0174, and also signed by Thomas
16 Howells on DEF0173. Do you recognize those two
17 signatures on the first page and on the third
18 page to be yours?

19 A. Yes, they're mine.

20 Q. Would this be consistent with you beginning work
21 -- strike that. There's no date on this. Do you
22 recall if you completed this in 1998 or 1999, or
23 don't you remember?

1 A. I have no clue.

2 Q. Let me show you what's been marked as Exhibit
3 142, which for the record is the Black Angus
4 Meats payroll checking report for the pay period
5 1/24/2005 to 1/30/2005, and I would like to
6 direct you to where your name is, where it says
7 you worked sixteen hours and made a hundred
8 ninety-two dollars. Do you see that?

9 A. Not yet.

10 Q. If you go the second name down, you see Howells,
11 Thomas?

12 A. Okay.

13 Q. And do you see where it says regular hourly pay,
14 and on the hours it says sixteen hours?

15 A. Correct.

16 Q. And it says amount a hundred-ninety-two?

17 A. Correct.

18 Q. And do you have any reason to believe that those
19 hours and amount are wrong?

20 A. No.

21 Q. This is the first payroll period we were given in
22 discovery by Black Angus Meats. If you worked
23 sixteen hours and you're paid a

1 hundred-ninety-two dollars, do you recognize that
2 as being twelve dollars an hour?

3 A. Yes, I would say so, yes.

4 Q. Okay. Do you ever recall being paid twelve
5 dollars an hour as a meat cutter at Black Angus
6 Meats?

7 A. To be honest with you, I don't know what I made
8 there per hour. I still don't.

9 Q. You never had any knowledge of what you made per
10 hour the whole time you worked there?

11 A. I never looked.

12 Q. Well, you were a long time plant manager, right?

13 A. Correct.

14 Q. So when you were hired at Black Angus Meats, did
15 you know what your hourly rate was?

16 A. I probably did, but it's been so long ago, I just
17 don't remember what it was.

18 Q. Let's assume you started working on or about
19 August 15 of 1999.

20 A. Okay.

21 Q. And six years later, five and a half years later,
22 in January of 2005, were you making twelve
23 dollars an hour?

1 MS. BAHAS: Object to the form. Asked and answered.

2 BY MS. GRECO:

3 Q. You can answer.

4 A. I just don't recall.

5 Q. Going back where it says your starting pay was

6 fifteen dollars an hour, do you ever recall

7 having a decrease in your hourly rate?

8 A. No.

9 Q. Do you know why that would indicate that you made

10 fifteen dollars an hour when you started?

11 MS. BAHAS: Object to the form.

12 BY MS. GRECO:

13 Q. And your payroll record would show you were

14 making twelve dollars an hour in the pay period

15 ending January 30, 2005?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: I have no clue.

18 BY MS. GRECO:

19 Q. As a past manager, would that be concerning to

20 you?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: Maybe if I knew about it or something

23 like that, I would have questioned it, but I

1 wasn't aware of it.

2 BY MS. GRECO:

3 Q. So what I'm trying to find out is, is there
4 anything that would help you remember -- strike
5 that. I served a Notice of Deposition and a
6 subpoena on you, you're represented by counsel.
7 Did you produce the documents that were required
8 by the subpoena?

9 MS. BAHAS: We provided the subpoena to Mr. Howells
10 and instructed him to follow the instructions on
11 the subpoena.

12 BY MS. GRECO:

13 Q. Did you bring any documents with you today?

14 A. No, I didn't.

15 Q. Why not?

16 A. Because I really don't know where they are to be
17 honest with you.

18 Q. You don't know where any of the documents are?

19 A. I never kept a pay stub, okay.

20 Q. Are you still working at Black Angus Meats today?

21 A. Correct.

22 Q. You have no pay stubs even today?

23 A. When I cash my check every Friday, I throw the

1 stub away, I don't keep the stubs. My W-2's, my
2 tax lady has all my W-2's, she keeps them.

3 Q. So you have no documents from Black Angus Meats
4 at all?

5 A. All I would have would be my W-2's, but I myself
6 don't have them.

7 Q. Do you know how many hours you worked when you
8 started at Black Angus Meats?

9 A. I think, I think, I'm not a hundred percent, I
10 think when I started there I was only working
11 Saturdays, but I'm not positive.

12 Q. Was there a -- Black Angus Meats is a meat shop
13 like Isenberg Meats, isn't that true?

14 A. No, completely different.

15 Q. But it's a meat shop, isn't that true?

16 A. It's a meat shop, yes.

17 Q. It sells meat, doesn't it?

18 A. Correct.

19 Q. And as long as you've been there, has it always
20 had a full-time butcher?

21 A. At where?

22 Q. Black Angus Meats.

23 A. No, not always a full-time.

1 Q. Has it had people -- have you ever received any
2 form of compensation, any kind of pay?

3 A. I don't understand.

4 Q. What I'm saying, have you ever been paid in cash?

5 A. Never.

6 Q. Have you ever been paid in any other way at Black
7 Angus Meats?

8 A. Never.

9 Q. And so you're saying that whatever their pay
10 records show for the amount of money that you
11 earned, that's how many hours you worked there?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. Is that what you're saying?

15 A. Yes.

16 Q. So if it showed you were only working seven hours
17 a week, that would be accurate?

18 MS. BAHAS: Object to the form.

19 THE WITNESS: Correct.

20 BY MS. GRECO:

21 Q. And your job at Black Angus Meats in non-deer
22 season, you would work at the butcher block?

23 A. Yes.

1 Q. And that's out in the open to the public?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: Yes. I can see the public, they can
4 see me, yes.

5 BY MS. GRECO:

6 Q. So if I came into Black Angus Meats and I went to
7 the frozen fish counter area, could I see you at
8 the butcher block?

9 A. Yes.

10 Q. And if I had a question about the cut of meat or
11 if I wanted something special, like I just had a
12 fifteen pound prime rib from a place I went and I
13 wanted to talk to you about, I would be able to
14 talk to you as the main meat cutter?

15 A. Correct.

16 Q. And when you were hired at Black Angus Meats, who
17 hired you?

18 A. I don't recall, but I would assume it was Bob.

19 MS. BAHAS: Don't assume. You're under oath.

20 THE WITNESS: I would say Bob.

21 BY MS. GRECO:

22 Q. How did you become aware that there was a
23 position?

1 A. I knew a salesman, Gary LaRusso and he used to
2 sell us when I was with Sher-Del and he sold
3 Black Angus and he told me about it.

4 Q. And once you started at Black Angus, did you
5 butcher deer?

6 A. Yes.

7 Q. And was that from the first year you started?

8 A. Yes.

9 Q. And before you started at Black Angus, were they
10 butchering deer?

11 A. Yes.

12 Q. So Gary LaRusso -- strike that. How did you
13 become aware through Gary LaRusso that Black
14 Angus was hiring?

15 A. What I believe, it was like Gary was a salesman,
16 he'd come into our place and then he would go to
17 Black Angus as a salesman and he told me if I
18 ever leave Sher-Del or anything like that, that I
19 always could probably pick up a job at Black
20 Angus if I wanted to.

21 Q. When you retired -- strike that. So assuming you
22 began working there in approximately 1999, what
23 hours were you working at Black Angus Meats?

1 A. It varied every week.

2 Q. Well, let's start 1999, at that time you were
3 working at U.S. Foods known as Stockyard Meats,
4 right?

5 A. Correct.

6 Q. And those hours of work were --

7 A. Seven to three-thirty.

8 Q. Okay. That was Monday through Friday?

9 A. Correct.

10 Q. Did you ever go to Black Angus Meats -- during
11 the time that you worked at Stockyard Meats also
12 known as U.S. Foods -- from now on we'll call it
13 Stockyard Meats, did you ever start at Black
14 Angus before seven o'clock in the morning?

15 A. No.

16 Q. Did you ever work at Black Angus after
17 three-thirty in the afternoon?

18 A. I might have, yes.

19 Q. And what were your hours of that?

20 A. Where?

21 Q. At Black Angus Meats.

22 A. Like I said, they varied. I didn't have a set
23 schedule there.

1 Q. You said you interviewed with, you believe it was
2 Bob?

3 A. It would have had to have been Bob.

4 Q. Can you tell me what you recall from the
5 interview?

6 A. No. I just don't remember.

7 Q. Did you talk about any employment benefits?

8 A. No.

9 Q. Were you offered any employee benefits?

10 A. No, just paid vacation.

11 Q. And what was your paid vacation based on?

12 A. Well, on the amount of hours I worked, they
13 averaged that out. Like if I worked fifteen,
14 twenty hours a week, I would get like twenty
15 hours paid vacation.

16 Q. Did they offer you health insurance?

17 A. No.

18 Q. At any time that you worked at Black Angus Meats,
19 did they offer you health insurance?

20 A. No. It was there if I wanted it.

21 Q. But you chose not to take it?

22 A. Correct.

23 Q. Why?

1 A. I didn't need it, because right after that I was
2 on Medicare.

3 Q. Well, when you retired in 1962, were you on
4 Medicare?

5 A. No.

6 Q. I'm sorry, when you retired when you were
7 sixty-two, were you on Medicare?

8 A. No.

9 Q. What did you do for health insurance then?

10 A. I didn't.

11 Q. What do you mean you didn't?

12 A. I didn't have any.

13 Q. So you went from sixty-two to sixty-five years
14 old without health insurance?

15 A. Correct.

16 Q. Were you offered the opportunity to have health
17 insurance at Black Angus Meats during that time?

18 A. Correct, yes.

19 Q. What did you decide?

20 A. Not to take it.

21 Q. Did your spouse have health insurance at that
22 time?

23 A. My wife was deceased.

1 Q. You said you don't remember anything about the
2 interview with Mr. Seibert.

3 A. No, I don't.

4 Q. Do you recall, were you hired at the time of the
5 interview?

6 A. I believe I was, yes.

7 Q. Were you told what your hourly rate was?

8 A. To my knowledge, I don't know. I don't remember.

9 Q. Based on your life experience, would you have
10 accepted a job without knowing what your hourly
11 rate was?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. I'm just asking you.

15 A. I didn't -- if you can understand this, I didn't
16 go to Black Angus -- I didn't need the money.
17 Not that I'm rich, but I didn't need the money.
18 I went there to get up in the morning and have
19 something to do.

20 Q. But you were working full-time at that time,
21 weren't you?

22 A. Where?

23 Q. At the time you went to Black Angus Meats.

1 A. Before I retired -- before I got my Social
2 Security I was, but once I got my Social
3 Security, I didn't need my full-time work.

4 Q. We're back in 1999 before you retired while you
5 were working at U.S. Foods or Stockyard Meats.

6 A. Correct.

7 Q. So that's what I'm asking you. In 1999 when you
8 started working at Black Angus Meats while you
9 were still employed full-time at Stockyard Meats.

10 A. I just don't remember what my starting pay was.
11 I just don't remember.

12 Q. Is there anything that would help you remember?

13 A. I don't think so.

14 Q. And how many hours were you working at Black
15 Angus Meats?

16 A. I've never worked over twenty, twenty-two,
17 twenty-four hours a week. So it could have been
18 ten, fifteen, twenty.

19 Q. And how would it be determined how many hours you
20 worked?

21 A. Well, there was other meat cutters there. I
22 wasn't the only meat cutter there.

23 Q. In 1999, who was the other meat cutter?

1 A. There was a man there by the name of Nelson
2 Schultz. Bob was a meat cutter. That's about
3 it.

4 Q. Do you recall any other meat cutters while you
5 were employed?

6 A. Do I what?

7 Q. Any other meat cutters while you were employed at
8 Black Angus Meats?

9 A. No.

10 Q. When I say meat cutters, I include those people
11 that cut meat, cut deer?

12 A. No.

13 Q. Do you know an individual by the name of David
14 Monopolus?

15 A. Yes, I do.

16 Q. Has he ever worked at Black Angus Meats?

17 A. I think he did work there last few years at deer
18 season, yes.

19 Q. Do you recall David Monopolus working there
20 when Darcy Black worked there?

21 A. No, I don't.

22 Q. Do you recall working side by side with Mr.
23 Monopolus at Black Angus Meats?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. You can answer, cutting deer meat?

4 A. In the last couple years, yes.

5 Q. When you say the last couple years, do you know
6 what years they are?

7 A. Maybe the last three years.

8 Q. By that, you mean 2000 -- when do you believe it
9 started?

10 A. I would say '15.

11 Q. '15, '16 and '17?

12 A. Yes.

13 Q. Do you recall him working there in 2005?

14 A. No.

15 Q. Do you recall him working there in 2006?

16 A. No.

17 Q. During deer season I'm talking about.

18 A. No.

19 Q. Do you recall him working there in 2007?

20 A. No.

21 Q. Do you recall him working there in 2008?

22 A. No.

23 Q. Do you recall him working there in 2009?

- 1 A. No.
- 2 Q. Do you recall him working there in 2010?
- 3 A. No.
- 4 Q. Do you recall him working there in 2011?
- 5 A. No.
- 6 Q. Do you recall him working there in 2012?
- 7 A. No.
- 8 Q. Do you recall him working there in 2013?
- 9 A. No.
- 10 Q. Do you recall him working there in 2014?
- 11 A. No.
- 12 Q. You said you do recall him working there in '15?
- 13 A. The last maybe three to four years, two to three
- 14 years. I'm just not sure.
- 15 Q. What was his position?
- 16 A. He was a meat cutter.
- 17 Q. His full-time job was somewhere else, was it not?
- 18 A. Yes.
- 19 Q. Where was that full-time job?
- 20 A. Market In The Square.
- 21 Q. Does he still work at Market In The Square?
- 22 A. No.
- 23 Q. When did he stop working there?

1 A. I don't know the dates.

2 Q. Do you know how he came to work at Black Angus
3 Meats?

4 A. No, I don't.

5 Q. Now, you said you believe he worked there the
6 last three or four years.

7 A. Yes.

8 Q. And let's go back to, let's start with 2017. Did
9 he work there in 2017?

10 A. Yes, deer season.

11 Q. And what did he do during deer season?

12 A. He was a meat cutter.

13 Q. What were his hours?

14 A. He'd come in at night.

15 Q. What's that, what does at night mean to you?

16 A. Maybe five, six o'clock.

17 Q. How long would he work for?

18 A. Two, three hours.

19 Q. And how many days did he do that during deer
20 season?

21 A. Deer season, the first two weeks there was deer
22 to cut. After the first two weeks there was very
23 few deer to cut. So maybe he'd come in four or

1 five days in the first week.

2 Q. How about the second week?

3 A. Could have been four or five days.

4 Q. How many deer would come in on the first day of
5 deer season? Somebody testified several hundred.

6 Can you tell me your best estimate how many deer
7 would come in?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. Used to be a lot. You just don't have the
12 hunters anymore. If we get sixty, seventy deer
13 opening day, that's a lot of deer.

14 Q. When was -- have you worked with Mark Leible?

15 A. Yes.

16 Q. Is he involved with -- he's an employee at Black
17 Angus Meats?

18 A. Correct.

19 Q. Would he be aware of how many deer came in on
20 opening day?

21 MS. BAHAS: Object to the form.

22 BY MS. GRECO:

23 Q. You can answer.

1 A. He didn't take deer in. He would once in a
2 while.

3 Q. You think he'd know the difference between sixty
4 deer and a hundred fifty deer or two hundred
5 deer?

6 MS. BAHAS: Object to the form.

7 BY MS. GRECO:

8 Q. You can answer.

9 A. He should.

10 Q. How long does it take to butcher a deer?

11 A. Two people, ten minutes.

12 Q. Did you ever recall opening day of shotgun season
13 taking in a hundred-thirty to a hundred-sixty
14 deer in a day?

15 A. Yes.

16 Q. In the year 2017, were you taking in a
17 hundred-thirty to a hundred-sixty deer in a day?

18 A. I would say no.

19 Q. When is the last time you do recall taking in a
20 hundred-thirty to a hundred-sixty deer on opening
21 day?

22 A. Three, four years ago.

23 Q. You said that in 2017, Mr. Monopolus worked two

1 to three hours during the week a day.

2 A. If I would leave, he would come in. I couldn't
3 say for sure how long he would stay there at
4 night.

5 Q. Do you recall working side by side by him cutting
6 deer meat?

7 A. I have, yes.

8 Q. And you recall staying late doing deer meat with
9 him?

10 A. Not late, no.

11 Q. Did you ever work on Saturday at Black Angus
12 Meats?

13 A. Yes.

14 Q. Did Mr. Monopolus ever work on Saturday at
15 Black Angus Meats?

16 A. First two weeks of deer season, yes.

17 Q. And how many hours a week would he work on
18 Saturdays?

19 A. Like I said, he would come in after work.

20 Q. On Saturdays?

21 A. Correct.

22 Q. Did he work on Saturdays at Market In The Square?

23 A. Correct.

1 Q. Did he work -- how many days a week did he work
2 at Market In The Square?

3 A. Six to seven. He was the manager.

4 Q. Would you know of any reason why Black Angus
5 Meats would have no pay records for Mr.
6 Monopolus for the year 2017?

7 A. No.

8 Q. Do you know of any reason why Black Angus Meats
9 would have no pay records for Mr. Monopolus for
10 the year 2016?

11 A. No.

12 Q. Do you know of any reason why Black Angus Meats
13 would have no pay records for Mr. Monopolus for
14 the year 2015?

15 A. No.

16 Q. Do you know of any reason why Black Angus Meats
17 has no pay records for Mr. Monopolus for the
18 year 2014?

19 A. No.

20 MS. GRECO: Can you mark this as Exhibit 291, please?

21

22 (Whereupon, David Monopolus Payroll
23 Pre-Checkwriting Report for Pay Periods December

1 5, 2005-December 11, 2005 and December 12,
2 2005-December 18, 2005 (2pp.) (DEF0878;DEF0863)
3 was then received and marked as Exhibit 291, for
4 identification.)

5

6 BY MS. GRECO:

7 Q. Let me show you what's been marked as Exhibit
8 291, which are the Black Angus pre-checkwriting
9 reports for the pay periods 12/5/2005 to
10 12/11/2005 and 12/12/2005 to 12/18/2005. Look at
11 the numbers on the bottom, you see they're
12 DEF0878 to DEF0863. Do you recall Mr.
13 Monopolopolus working at Black Angus Meats during
14 the year 2005?

15 MS. BAHAS: Object to the form. Asked and answered.

16 BY MS. GRECO:

17 Q. You can answer. You see his name here on the pay
18 records? Do you see his name, David Monopolopolus,
19 the first sheet on the bottom?

20 A. I don't remember him working there, no.

21 Q. Do you have any reason to believe these payroll
22 records are inaccurate?

23 A. I have no reason to.

1 Q. I'll show you what's been marked -- strike that.

2 Can you mark this as Exhibit 292.

3

4 (Whereupon, David Monopolopolus W-2 Report
5 2005 (1p.) (DEF2703) was then received and marked
6 as Exhibit 292, for identification.)

7

8 BY MS. GRECO:

9 Q. Before we get to this, going back to Exhibit 291,
10 do you recognize that Mr. Monopolopolus, according
11 to this record, was making twelve dollars an
12 hour?

13 A. I have no idea what anybody made.

14 Q. Do you have any recollection of Mr. Monopolopolus
15 working in 2005 at Black Angus Meats?

16 MS. BAHAS: Objection, asked and answered.

17 BY MS. GRECO:

18 Q. You can answer.

19 A. No, I don't.

20 Q. Do you have any recollection of Mr. Monopolopolus
21 working in 2006 at Black Angus Meats?

22 MS. BAHAS: Objection, asked and answered.

23 THE WITNESS: No, I don't.

1 BY MS. GRECO:

2 Q. Let me show you what's been marked as Exhibit
3 292. The record is the Black Angus Meats W-2
4 report relative to David Monopolus for the year
5 2005 which demonstrates he earned seven hundred
6 eighty-six dollars for the year. Do you see
7 that?

8 A. Yes, I do.

9 Q. Do you have any reason to believe that in the
10 year 2005 when he worked at Black Angus Meats
11 that the amount seven hundred and eighty-six
12 dollars is inaccurate relative to representing
13 him on the time he spent there?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: I'm not aware of him working there
16 then.

17 BY MS. GRECO:

18 Q. When is the first time you met David Monopolus?

19 A. Probably ten years ago.

20 Q. And how did you meet him?

21 A. I used to go in Market In The Square and
22 sometimes when I needed something, I'd call him
23 and that's how I met him.

1 Q. You mean for your own personal consumption?

2 A. Yes.

3 Q. You knew he was a butcher?

4 A. Correct.

5 Q. Do you know how he came to Black Angus Meat?

6 A. I have no idea.

7 Q. And when you first saw him at Black Angus Meats,
8 you already knew who he was?

9 A. Yes.

10 Q. And was he a trained meat cutter?

11 A. Yes.

12 Q. And do you know how he came to be hired at Black
13 Angus Meats?

14 A. No.

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. Did anyone tell you when he started working at
18 Black Angus Meats how he came to be there?
19 You're cutting meat, a new person comes in
20 cutting meat with you, does anybody tell you
21 anything about him?

22 A. He never cut meat while I was there.

23 Q. Do you recall being in the deer room cutting meat

1 side by side with him?

2 A. That's something different, that's in the deer
3 room. As far as cutting meat up front, never.

4 Q. When I say Black Angus Meats, I include the
5 non-deer meat and the deer meat or any other kind
6 of game that they cut, elk, bear, goose, any of
7 that.

8 A. Okay.

9 Q. So my question to you is, did you ever cut meat
10 side by side with Mr. Monopolus at Black Angus
11 Meats?

12 A. Yes.

13 Q. And is it fair to say that you personally --
14 strike that. Did you ever socialize, did you
15 ever socialize with Mr. Monopolus?

16 A. Never.

17 Q. Not friends with him? Did you ever make him
18 aware there was a possible position at Black
19 Angus Meats?

20 MS. BAHAS: Object to the form.

21 BY MS. GRECO:

22 Q. You can answer.

23 A. No.

1 Q. Did he ever tell you how he came to hear there
2 was a position at Black Angus Meats?

3 A. No.

4 Q. And do you have any idea how old Mr. Monopolus
5 is?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: I would say right now he's about fifty.

8 BY MS. GRECO:

9 Q. Is it fair to say that during the time that Mr.
10 Monopolus was working in the deer room, that
11 other people who were working in or about that
12 area would be able to observe him being there
13 physically?

14 A. Yes.

15 Q. Do you know if any employees or other individuals
16 took pictures of individuals in the deer room?

17 A. Not to my knowledge.

18 Q. Do you know if Mr. Monopolus ever worked at
19 Black Angus Meats during the time Darcy Black
20 worked there? I showed you the two pay stubs for
21 2005, at any time in addition to that?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. You can answer.

2 A. I don't know.

3 Q. Is there anything that would help you remember?

4 A. No.

5 Q. Did Black Angus Meats have schedules for its
6 employees?

7 A. Yes.

8 Q. And if you were scheduled to work to cut deer,
9 would that be on the schedule?

10 A. No.

11 Q. Did any of the individuals who worked cutting
12 deer or racking deer, did they appear on the
13 schedule?

14 A. No.

15 Q. So if Darcy Black was wrapping deer meat, she
16 would not appear on the schedule?

17 A. She would be on the schedule, okay. And then it
18 would have deer next to it. But the meat
19 cutters, it was whenever we could get them.

20 Q. What do you mean by whenever we could get them?

21 A. A lot of time they weren't available. Like a
22 Dave or a Bob, if he was delivering or something
23 like that.

1 Q. Mr. Seibert testified to what his job duties were
2 during that time period. So my question to you
3 is, is there anyone else? I mean, we showed you
4 Mr. Monopolus and you then, you remember yes,
5 he's a deer cutter, been there and left. When
6 you said he was there in 2017, when I asked you
7 about meat cutters, why didn't you tell me about
8 him?

9 MS. BAHAS: Object to the form.

10 BY MS. GRECO:

11 Q. You can answer. I remind you, you're under oath.

12 A. I have no reason to lie to you.

13 Q. You forgot he worked there?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: I just don't recall. If I said it,

16 then -- I'm not here to lie.

17 BY MS. GRECO:

18 Q. You don't recall who you worked with -- how long

19 ago was deer season?

20 A. Oh, I know who I worked with this year.

21 Q. But you know you worked with him?

22 A. Yes.

23 Q. But when I asked you who the meat cutters were,

1 you didn't tell me that, right?

2 A. Maybe I didn't, I don't know. You're confusing
3 me a little bit here and that doesn't take much.

4 Q. Do you work with knives?

5 A. Yes.

6 Q. And you think it's important to be able to have
7 your wits about you when you're working with
8 sharp objects?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: Yes.

11 BY MS. GRECO:

12 Q. Can you perform your job satisfactorily?

13 A. I think I can.

14 Q. Do you have any reason to believe you can't.

15 A. No.

16

17 (Whereupon, Correspondence to Randolph C.
18 Oppenheimer, Esq., from Josephine A. Greco, Esq.,
19 dated February 2, 2018, enclosing Subpoena,
20 Exhibit A and Plaintiff's Notice to Take
21 Deposition of Thomas Howells on February 9, 2018
22 (8pp.) (Not Bates) was then received and marked as
23 Exhibit 293, for identification.)

1 BY MS. GRECO:

2 Q. Let me show you what's been marked as Exhibit
3 293, which was provided to your counsel. It's
4 our enclosed letter to Mr. Oppenheimer enclosing
5 the subpoena to testify today and the notice to
6 take the deposition. Did you ever receive these
7 documents?

8 A. Yes.

9 Q. And let me ask you so you can testify under oath,
10 do you have any W-2 statements, 1099 forms or
11 other tax documentation received from Black Angus
12 Meats for the period January 1, 2004 to the
13 present in your possession?

14 A. Not in my possession. They're with my tax
15 people.

16 Q. Do you have any personnel documents in your
17 possession including job applications, work
18 schedules, timecards, performance reviews, notice
19 of pay increases or bonus, workplace policies,
20 discipline records, transfer or promotion or
21 demotion records, job descriptions or anything
22 from Black Angus Meats or any other Defendants
23 from January 1st, 2004 to the present?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. You can answer.

4 A. No.

5 Q. Do you have any documents reflecting salary
6 compensation, wages and benefits whether by
7 check, cash or like kind benefits paid to you by
8 Defendants Black Angus Meats or its three owners
9 from January 2004 through the present including
10 pay stubs, paychecks, receipts, annual earning
11 statements?

12 A. No.

13 Q. Did you ever receive in any envelope from Black
14 Angus Meats cash?

15 A. Never.

16 Q. Do you know how Mr. Monopolus was paid for the
17 work he did for Black Angus Meats in 2017?

18 A. The only thing I can think of, he used to bring
19 some deer in for his friends. If that had
20 anything to do with it or not, I don't know.

21 Q. But he did the same work you did when he came in
22 to cut deer?

23 MS. BAHAS: Object to the form.

1 THE WITNESS: Pardon?

2 BY MS. GRECO:

3 Q. When you were cutting deer, he would cut deer?

4 MS. BAHAS: Objection to form.

5 THE WITNESS: He would cut deer for his friends too.

6 BY MS. GRECO:

7 Q. It might be too -- did you cut deer for your
8 friends?

9 A. No.

10 Q. Although at your other job, you actually used
11 their deer room for your friends' deer. When you
12 were at Black Angus Meats, you never cut a deer
13 for your friends?

14 A. No.

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. Do you know of any relationship between Black
18 Angus Meats or any of its principals and Mr.
19 Monolopolus regarding his compensation for
20 working as a meat cutter?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: No.

23 BY MS. GRECO:

1 Q. Did Mr. Monopolus ever discuss it with you?

2 A. Never.

3 Q. Did Mr. Seibert ever discuss it with you?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. No.

8 Q. Did anyone discuss Mr. Monopolus with you prior
9 to today?

10 A. No.

11 Q. Did you ever tell anyone you worked with Mr.
12 Monopolus -- did you ever tell anyone relative
13 to this action, whether it's Mr. Seibert or
14 anyone that worked at Black Angus Meats or
15 anything that you worked with Mr. Monopolus at
16 Black Angus Meats?

17 MS. BAHAS: Object to the form.

18 BY MS. GRECO:

19 Q. You can answer.

20 A. No.

21 Q. What exactly did you observe Mr. Monopolus do
22 when he was working at Black Angus Meats?

23 A. Cut deer.

1 Q. Did you ever collect money relative to hunters
2 bringing deer to Black Angus Meats to be
3 butchered?

4 A. From who?

5 Q. From the customer.

6 A. No, never.

7 Q. Do you know who collected the money?

8 A. It was written on an invoice and it would be paid
9 for up front.

10 Q. Was it handwritten on the invoice?

11 A. Yes.

12 Q. Or were they computer generated?

13 A. No, handwritten.

14 Q. Do you know if there was a separate cash register
15 for deer meat as opposed to the other meats and
16 products sold at Black Angus Meats?

17 A. Yes, there was.

18 Q. Did you ever run that cash register?

19 A. I've never run any register there.

20 Q. Do you know who took in the meat for the deer
21 that were processed at Black Angus Meats?

22 A. You mean who rang them out? There was a couple
23 people that might have done that, mostly Diane.

1 Q. Anybody else you observed, you personally
2 observed other than Diane?

3 A. Yes. Debbie would, Keegan. Other than that, no.

4 Q. Do you know an individual by the name of -- let
5 me go through these with you. Let me show you
6 what's been marked as Exhibit 143. For the
7 record, this is a Black Angus Meats W-2 report
8 for the year 2005 for Thomas C. Howells
9 indicating his wages, tips and other compensation
10 was four thousand, four hundred seventy dollars.
11 Do you recognize that document?

12 A. No, I don't.

13 Q. Do you know how many hours you worked in the year
14 2005 at Black Angus Meats?

15 A. I have no clue.

16 Q. When you received your W-2, would you have known
17 at that time how many hours you worked at Black
18 Angus Meats?

19 A. No.

20 Q. Would you have had an idea of how much money you
21 would have earned at Black Angus Meats?

22 A. No.

23 Q. If you worked enough hours to make ten thousand

1 and they gave you a W-2 for four thousand
2 dollars, would that have concerned you?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: They wouldn't do that.

5 BY MS. GRECO:

6 Q. I'm sure you would also say that they would, if
7 Mr. Monopolus was working there, they would
8 issue him W-2's and paychecks, right?

9 MS. BAHAS: Object to the form.

10 BY MS. GRECO:

11 Q. Wouldn't you believe that to be true?

12 A. Yes.

13 Q. So what I'm asking you then is not what you
14 believe, but what you know. I'm saying when you
15 received your W-2 for the year 2005, was it
16 accurate to the best of your knowledge?

17 A. Yes.

18 Q. Let me show you what's been marked as Exhibit
19 144. For the record, this is the Black Angus
20 Meats W-2 report for the year 2006 for Thomas
21 Howells. Showing the second page, wages, tips
22 and other compensation for six thousand, four
23 hundred, seventy-one dollars. When you received

1 your W-2 for the year 2006, did you consider it
2 to be accurate based on the amount of time you
3 had worked?

4 A. Yes. I didn't work that much.

5 Q. Well, you earned, according to this document, you
6 earned six thousand, four hundred and seventy-one
7 dollars.

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. Unless I'm reading it wrong.

11 MS. BAHAS: Was that a question?

12 BY MS. GRECO:

13 Q. No. I'm saying, do you see this document where
14 it says six thousand, four hundred seventy-one
15 dollars?

16 A. Yes.

17 Q. Is that consistent -- if you received a W-2 that
18 said what appeared to be a wrong number to you,
19 what would you have done?

20 A. I would have went to management.

21 Q. Did you at any time contact management regarding
22 any perceived error in your W-2 for the year 2006
23 for Black Angus Meats?

1 A. I had no reason to.

2 Q. I'll show you what's been marked as Exhibit 145.

3 For the record, this is the Black Angus Meats
4 payroll pre-checkwriting report for the period
5 ending 1/7/07 and 1/14/07. This shows that on --
6 strike that. Do you recall receiving a pay raise
7 that was effective during the week 1/7/07 to
8 1/14/07?

9 A. I do not remember that.

10 Q. Do you recall getting a pay increase from twelve
11 dollars an hour to thirteen dollars an hour in
12 the year 2007?

13 A. No.

14 Q. Based on your experience as a meat cutter, do you
15 recall receiving thirteen dollars an hour --
16 strike that. In 2007, how many years had you had
17 experience as a meat cutter?

18 A. Probably forty-five.

19 Q. And do you recall being paid thirteen dollars an
20 hour by Black Angus Meats to be a meat cutter in
21 2007?

22 MS. BAHAS: Object to the form. Asked and answered.

23 BY MS. GRECO:

1 Q. You can answer.

2 A. If that's what it says, that's what I was
3 getting.

4 Q. Okay. Did you ever ask for a raise?

5 A. Never.

6 Q. Let's go to Exhibit 146, which is the W-2 for the
7 year 2007 indicating you earned nine thousand
8 twelve dollars and twenty-five cents. Do you
9 recall receiving that amount of money in the year
10 2007?

11 A. I don't recall, but if that's what it says,
12 that's what I must have got.

13 Q. Would you be able to get your records from your
14 accountant?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. We don't have the actual W-2's. You said your
18 accountant keeps your tax records. You don't
19 keep them at your house?

20 A. No. Because my accountant, I was going with a
21 lady that passed away, okay, and she was a CPA,
22 and her two kids, her son and daughter-in-law
23 took the business over. So I just take my taxes

1 to them and they tell me what I owe or if I'm
2 getting something back and they keep everything.

3 Q. And they keep your tax records?

4 A. Yes.

5 Q. So if we requested, you have the authority to get
6 them from your CPA, do you not?

7 A. Correct.

8 Q. And do you recall in the year 2007 getting a W-2
9 for nine thousand, twelve dollars and twenty-five
10 cents?

11 A. I don't recall the amount, no.

12 Q. Did you have any reason to believe that you were
13 not being paid for all the hours that you worked
14 at Black Angus Meats in 2007 when you received
15 your W-2?

16 A. No.

17 Q. So based on your testimony, you believe it was
18 accurate when you received it?

19 A. Correct.

20 Q. Show you what's been marked as Exhibit 147. For
21 the record, it is the payroll pre-checkwriting
22 report for the pay periods ending 1/27/08 and
23 10/9/08 -- I'm sorry, 1/27/08 and 2/3/08 relative

1 to Tom Howells. Do you recall receiving a pay
2 raise to fourteen dollars an hour in the week
3 ending 2/3/08?

4 A. No, I don't.

5 Q. Do you recall at the time receiving fourteen
6 dollars an hour at Black Angus Meats?

7 A. No, I don't.

8 Q. So it's your testimony that you have no
9 recollection at any time what your hourly rate
10 was at Black Angus Meats, is that true?

11 A. I don't know what it is today.

12 Q. So you have no idea what your hourly rate is?

13 A. No.

14 Q. Is that normal for you to work for someone and
15 not know what you're getting paid by the hour?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: No. I'm happy with what they pay me.

18 I'm happy to get up and go to work. I make a few
19 bucks and that's what I'm happy with.

20 BY MS. GRECO:

21 Q. When you worked another full-time job, you
22 weren't getting up to go to Black Angus Meats,
23 were you?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. For the six years before you retired, or five
4 years or whatever it was from U.S. Foods, you not
5 only worked at U.S. Foods but you also went and
6 worked at Black Angus Meats.

7 A. Correct.

8 Q. You didn't need Black Angus Meats to get up in
9 the morning, did you?

10 A. No.

11 Q. In those years, you have no recollection of what
12 you earned or what they hired you at?

13 A. No.

14 Q. Do you have any reason to believe you were
15 earning anything different than fourteen dollars
16 an hour during the time period beginning 2/3/08?

17 A. No.

18 Q. Let me show you what's been marked as Exhibit
19 148. For the record, this is a payroll,
20 pre-checkwriting payroll report for the period
21 ending 10/19/08 and 10/26/08 at Black Angus Meats
22 relative to Thomas Howells. Do you recall, Mr.
23 Howells, receiving a raise to fifteen dollars an

1 hour for the week ending October 26th, 2008?

2 A. No, I don't.

3 Q. Getting a dollar raise an hour, would that be
4 significant to you?

5 A. Yes.

6 Q. Do you have anything that would help you refresh
7 your recollection?

8 A. No.

9 Q. Do you know if, in fact, you were making fifteen
10 dollars an hour beginning October 26th, 2008?

11 A. No.

12 Q. Show you what's been marked as Exhibit 149, which
13 is a W-2 report from the year 2008 for Thomas
14 Howells. Shows he made thirteen thousand, six
15 hundred forty-six dollars and thirty cents. Do
16 you have any reason to believe that's inaccurate?

17 A. No.

18 Q. Did you receive your W-2 for that year?

19 A. I'm sure.

20 Q. Did you ever complain that there was an error
21 made in the W-2 for 2008?

22 A. No.

23 Q. You understand it would be your obligation

1 legally if there was an error to bring it to the
2 attention of your employer?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: Yes.

5 BY MS. GRECO:

6 Q. And that would include all your services for deer
7 meat and non-deer meat?

8 A. Yes.

9 Q. Show you what's been marked as Exhibit 150. For
10 the record, it is a Black Angus Meats W-2 report
11 for the year 2009 reflecting Thomas Howells
12 earned twenty-one thousand, two hundred
13 eighty-two dollars and seventy-five cents. Do
14 you know how old you were in 2009?

15 A. I must have been sixty-five, sixty-six.

16 Q. Were you at full retirement age that year?

17 A. Yes.

18 Q. So at full retirement age, you could earn any
19 amount and not have to pay money back to Social
20 Security?

21 MS. BAHAS: Object to the form.

22 BY MS. GRECO:

23 Q. When you're full retirement age, you're allowed

1 to earn whatever you wanted and you wouldn't have
2 to pay any money back of the Social Security
3 retirement you received, isn't that true?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: Yes.

6 BY MS. GRECO:

7 Q. Let me show you what's been marked as Exhibit
8 151. Let me show you a W-2 report for the year
9 2010 of Black Angus relative to you which shows
10 wages, tips and other compensation of twenty
11 thousand, nine hundred forty-seven dollars and
12 fifty cents. Do you recall receiving a W-2 for
13 the year 2010 from Black Angus Meats?

14 A. I would have had to because I did my taxes.

15 Q. Did you ever say that the W-2 for the year 2010
16 at Black Angus was inaccurate?

17 A. Never.

18 Q. Do you have any reason to believe it to be
19 inaccurate?

20 A. No.

21 Q. Can you tell me why you went from earning nine
22 thousand dollars in 2008 to earning twenty-one
23 thousand in 2009 at Black Angus Meats?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: Must have worked more hours.

3 BY MS. GRECO:

4 Q. Do you recall there being any reason for you to
5 work more hours?

6 A. I don't know what years, but there was another
7 meat cutter there and he took sick and I did pick
8 up a few of his hours.

9 Q. That was Mr. Schultz, right?

10 A. Correct.

11 Q. Do you recall when Mr. Schultz left Black Angus
12 Meats?

13 A. I have no idea.

14 Q. And he was sick for some time prior to leaving
15 Black Angus Meats, wasn't he?

16 A. No, I don't think so. He might have had health
17 issues but he showed up for work every day.

18 Q. Didn't he have cancer?

19 A. No. He's still around today.

20 Q. Did he have prostate cancer, if you know?

21 MS. BAHAS: Object to the form.

22 BY MS. GRECO:

23 Q. Maybe that will help you refresh your

1 recollection.

2 A. I don't, I don't know.

3 Q. Did he work on a daily basis at Black Angus
4 Meats?

5 A. Not every day, no.

6 Q. Do you know how many hours he worked --

7 A. I have no clue.

8 Q. -- a week?

9 A. I have no clue. He'd come in early in the
10 morning and leave. I have no clue what he
11 worked.

12 Q. And you would replace him when he left?

13 A. No. When he left, the work was done that had to
14 be done that day.

15 Q. If Mr. Schultz was only making a limited amount
16 of money -- strike that. You testified based on
17 your knowledge that Mr. Schultz was the only meat
18 cutter there when he worked there.

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Bob was a meat cutter.

21 BY MS. GRECO:

22 Q. I understand. Mr. Seibert has testified about
23 what his job duties were.

1 A. You just asked me.

2 Q. Do you recall a time when Mr. Schultz would leave
3 and you would come in and you would take over as
4 a meat cutter?

5 A. No.

6 Q. Did you ever see Mr. Schultz when you came into
7 work?

8 A. No. I know Mr. Schultz and I had been in there
9 when he was there, but I never come in after him.

10 Q. How did you know Mr. Schultz?

11 A. From Black Angus.

12 Q. That's where you met him?

13 A. Correct.

14 Q. And you met him when you started working there?

15 A. Yes.

16 Q. Had you ever worked with him when you started
17 working there?

18 A. I'm sure I worked with him a day here or day
19 there, but I really don't recall. It wasn't
20 much. There was only a small table. Two of us
21 couldn't even work at the table.

22 Q. Was the deer table bigger?

23 A. In the back?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. For cutting deer meat?

4 A. Oh, yes.

5 Q. Let me show you what's been marked as Exhibit
6 152. This is a W-2 from Black Angus Meats for
7 Mr. Thomas Howells. This record -- so far
8 exclusively we've been talking about Thomas
9 Howells. Wages and tips and other compensation
10 for twenty-one thousand, two hundred eighty-two
11 dollars and seventy-five cents. Did you receive
12 that W-2?

13 A. I'm sure I did.

14 Q. Based on the hours you worked that year, does
15 that accurately reflect your earnings?

16 A. I would say yes.

17 Q. Do you know?

18 A. I'm not a hundred percent sure, but that's what
19 it says, I'm sure that's what it is.

20 Q. All right. And you're sure that's what it was
21 because that's consistent with the hours you
22 believe you worked at that time, is that fair to
23 say?

1 A. Yes.

2 Q. Let me show you what's been marked as your W-2
3 for the year -- it's Exhibit 153 for the year
4 2012 reflecting that you had wages, tips and
5 other compensation of eighteen thousand, six
6 hundred forty-one dollars and twenty-five cents.
7 Do you recall receiving that W-2?

8 A. I don't recall but I'm sure I did.

9 Q. Does that accurately reflect your wages, tips,
10 other compensation or any work that you did at
11 Black Angus Meats?

12 A. Yes.

13 Q. Let me show you what's been marked as Exhibit 144
14 which is the payroll record for Buffalo Meat
15 Services, Inc. for the pay period ending 4/21/13
16 and 4/28/13. Do you recall ever receiving a
17 raise to sixteen dollars an hour for the week
18 ending 5/5/13?

19 A. No.

20 Q. And do you recall discussion with anyone
21 regarding a raise?

22 A. No.

23 Q. Would it be fair to say if your income went up,

1 you wouldn't know anything about it?

2 A. No.

3 Q. So you would just receive a paycheck and have no
4 idea if your wages increased?

5 A. No, because I never knew exactly how many hours I
6 worked. I'd come, do my work and leave. I never
7 knew if I worked twenty hours a week or
8 twenty-two hours or sixteen. I didn't keep track
9 of it.

10 Q. Do you know where the timecards are kept?

11 A. Yes.

12 Q. Do you know the rule about how long you're
13 supposed to maintain timecards?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. You were a plant manager, as a plant manager of
17 individuals who had timecards?

18 A. No, because when I did the timecards at Sher-Del
19 Foods, the timecards went to our main office.
20 What they did with them from there, how long they
21 kept them, I have no clue.

22 Q. What did you do when you did the timecards?

23 MS. BAHAS: Objection to form.

1 THE WITNESS: I sent them to the office.

2 BY MS. GRECO:

3 Q. Did you have to make sure people were actually
4 clocking in and clocking out?

5 A. Yes.

6 Q. Did you maintain a timecard when you worked at
7 Black Angus Meats?

8 A. Yes.

9 Q. Would you write on that timecard or was there a
10 time clock?

11 A. I think when I first started there, there was a
12 time clock, but there hasn't been one in years,
13 but I could be wrong on that too. There's none
14 there now and there hasn't been one there.

15 Q. And you would write in when you started work and
16 when you ended work?

17 A. Correct.

18 Q. You would do that on a daily basis?

19 A. Correct.

20 Q. So you would know how many hours you worked when
21 you looked at your timecard every day, correct?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. You can answer. Assuming you put your hours
2 down.

3 A. Yes, I put my hours down, but if I started at
4 seven or eight and left at three, I didn't figure
5 it out. I had no reason to.

6 Q. Did you get any breaks at Black Angus Meats?

7 A. Yes.

8 Q. What were your breaks -- strike that. When did
9 you learn you would be getting any breaks at
10 Black Angus Meats?

11 A. First day I started there.

12 Q. What were you told?

13 A. You get two fifteen-minute breaks and a half hour
14 break.

15 Q. Were you paid for your lunch break there?

16 A. No.

17 Q. So if you worked eight and a half hours, you
18 would be paid for eight hours?

19 A. Correct.

20 Q. And did you take your lunch break?

21 A. Yes.

22 Q. Did everyone else take their lunch break?

23 A. Yes.

1 Q. Did you observe them taking their lunch break?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: I seen people take breaks. I can't say
4 if this one, that one or this one took it at the
5 same time. I was up front. A lot of them worked
6 in the back. What they did, I have no clue.

7 BY MS. GRECO:

8 Q. Do you recall taking a lunch break with other
9 individuals where you would eat at Black Angus
10 Meats?

11 A. Yes.

12 Q. Was that daily? Like you told us about the other
13 company you worked at where they gave you a half
14 hour and everybody ate together and you were not
15 paid for that time. Was that how it was at Black
16 Angus Meats?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: The food, they wouldn't make food every
19 day, but when they did make food, it was put in
20 the back. And when the food was put in the back,
21 whoever put the food back there, they would say
22 the food is back there. If I didn't go back
23 right away, if I went back ten minutes later, I

1 would go back and eat.

2 BY MS. GRECO:

3 Q. And take your half hour break?

4 A. Correct.

5 Q. Would you mark your lunch on your timecard?

6 A. No.

7 Q. So if I was to get your timecard, I would see for

8 that day -- if I was to see your timecards, I

9 would see that daily a half hour was deducted for

10 your lunch.

11 A. Correct.

12 Q. You said you got two fifteen-minute breaks?

13 A. Correct.

14 Q. When would you start work?

15 A. Sometimes six, sometimes seven.

16 Q. And when would you leave work?

17 A. Three, two-thirty, two.

18 Q. And when would you take your first break,

19 generally?

20 A. Seven, eight o'clock. I mean, there was coffee

21 there all the time, you'd get a cup of coffee and

22 you had it next to you.

23 Q. But you were working during that time, were you

1 not?

2 A. Correct.

3 Q. But when you took your break, that was your
4 non-work time?

5 A. Correct.

6 Q. I don't need an exact time, but approximately
7 when would you take your first break?

8 A. Approximately two hours after I got there.

9 Q. Approximately when would you take your lunch?

10 A. Roughly around noon.

11 Q. And then when would you take your second break,
12 not a lunch break, but your second short break?

13 A. One-thirty.

14 Q. And when you took your breaks, where would you
15 take them?

16 A. If it was nice, I'd go outside. If it wasn't
17 nice, I'd stay inside.

18 Q. Was there a break room at Black Angus Meats?

19 A. It wasn't very big, but there was a room.

20 Q. When you started at Black Angus Meats, were you
21 told by anyone you would have these two
22 fifteen-minute breaks and a lunch break?

23 A. Yes.

1 Q. Who told you that?

2 A. Bob.

3 Q. Who would you take your lunch break with --

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. -- if anyone at Black Angus Meats?

7 A. Whoever was back there at the time.

8 Q. So you would take your lunch break sometimes in
9 the break room?

10 A. Correct.

11 Q. Where was the break room located?

12 A. Well, it's in the main room. It's right near the
13 meat block.

14 Q. Did you open Black Angus Meats in the morning?

15 Do you open Black Angus Meats in the morning?

16 A. I have a key, yes.

17 Q. You said sometimes you'd start at six o'clock.

18 Who would be there at six o'clock?

19 A. Nobody.

20 Q. When did you start -- well, when did you first
21 get a key to Black Angus Meats?

22 A. Maybe I was there five, six, seven years,
23 something like that.

1 Q. When Darcy Black worked at Black Angus Meats, did
2 you have a key?

3 A. Yes.

4 Q. And when she worked seven to three-thirty shift,
5 would you already be there when she got there at
6 seven?

7 A. The days I was there, I would always be there
8 ahead of her.

9 Q. And who would arrive after you got there whenever
10 you got there sometime approximately around six
11 o'clock?

12 A. No one would really come in until seven.

13 Q. Who would come in at seven?

14 A. Usually Darcy when she worked and usually Debbie.

15 Q. And what would you do when you first started,
16 when you got there at six o'clock in the morning,
17 what were your job duties?

18 A. I'd start setting the counter up.

19 Q. What does that mean?

20 A. Getting the meats ready for the day.

21 Q. Would that entail cutting meats?

22 A. If need be, yes.

23 Q. Can you explain that to me?

1 A. Sometime you could use some of the meat from the
2 day before, so you put that in. If you had to
3 cut new, you'd cut new.

4 Q. How long does it take to set up a counter?

5 A. I can set a counter up in two hours.

6 Q. And then what would you do after that?

7 A. I would get some stock ready for the girls to
8 wrap.

9 Q. What does that mean?

10 A. I would cut extra stuff so we'd have it for the
11 beginning of the month.

12 Q. Okay. And when you say cut extra stuff, what are
13 we talking about?

14 A. I would cut sirloins, strips, pork chops,
15 whatever meat there is that we sell there, I
16 would get ready.

17 Q. Okay. And after you cut it, what would happen to
18 it?

19 A. It would get wrapped. It would go in the cooler
20 and then I would leave the girls, if I left, I
21 would leave them a list on what to wrap and what
22 not to wrap.

23 Q. So you would cut the meat and leave it in the

1 cooler and someone else would go in the cooler to
2 wrap it?

3 A. Correct.

4 Q. And you would leave a list what to do with it,
5 how to wrap it?

6 A. No, not how to wrap it. I would leave a list
7 what's to be wrapped and what's not to be
8 wrapped.

9 Q. Then what would you do after you cut the extra
10 stuff?

11 A. Go home.

12 Q. How long does it take to cut the extra stuff?

13 A. Three, four hours.

14 Q. And then is that your daily routine?

15 A. When I was there, yes.

16 Q. So now let's talk about what would happen during
17 deer season. You would still do your normal
18 daily routine?

19 A. I would set the counter up and then usually Mark
20 or someone else would finish the counter and I'd
21 go back and cut some deer, yes.

22 Q. When you say you would go back and cut some deer,
23 where would you go?

1 A. We have a separate processing in the back.

2 Q. We're going to come back to that, but first we're
3 going to finish the income thing. Let me show
4 you what's been marked as Exhibit 155. Let me
5 show you Exhibit 155 which is the W-2 for the
6 year 2013 from Black Angus Services, Inc. to you
7 which shows you earned twenty-one thousand, six
8 hundred thirty-four dollars and forty-five cents.

9 A. Okay.

10 Q. Did you receive that W-2?

11 A. I'm sure I did.

12 Q. Did you file it with your federal tax and state
13 taxes?

14 A. Sure, yes.

15 Q. When you received it, did it reflect the hours
16 that you did anything at Black Angus Meats as
17 well as the hourly rate you were being paid?

18 MS. BAHAS: Object to the form.

19 BY MS. GRECO:

20 Q. You can answer.

21 A. Whatever I worked and I put on my timecard at
22 Black Angus, they paid me for.

23 Q. What if you didn't put it on your timecard, did

1 you ever do things there that you didn't put on
2 your timecard?

3 A. I have no reason to.

4 Q. I asked if you did, not if you had a reason to.

5 A. No, I didn't.

6 Q. So anything you did at Black Angus Meat -- are
7 you testifying under oath that anything you did
8 at Black Angus Meats was reflected in your time
9 records?

10 A. Yes.

11 Q. Do you have any reason to believe that this is
12 inaccurate?

13 A. No.

14 Q. Let me show you Exhibit 156, which is a W-2 from
15 Black Angus Meats to you, Thomas Howells, for the
16 year 2014 which reflects twenty-two thousand,
17 eighty-eight dollars. Does that reflect all of
18 the -- any services that you did at Black Angus
19 Meats during that year?

20 A. Yes.

21 Q. I'll show you Exhibit 157. Is this your W-2 for
22 the year 2015 from Black Angus Meats to Tom
23 Howells which indicates you made wages, tips and

1 other compensation of twenty thousand, nine
2 hundred ninety-five dollars. Does that reflect
3 all of the work, volunteer or otherwise, that you
4 did at Black Angus Meats during that time period?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: I didn't volunteer for anything, so I
7 got paid.

8 BY MS. GRECO:

9 Q. Does that reflect it?

10 A. Yes.

11 Q. Did you receive that W-2?

12 A. I'm sure I did.

13 Q. Did you file your taxes for the year 2015?

14 A. Yes.

15 Q. Let me show you Exhibit 158, which is your W-2
16 from Black Angus Meats for Thomas Howells for the
17 year 2016 which shows wages, tips and other
18 compensation of twenty-one thousand, three
19 hundred and one dollar and twenty-eight cents.
20 Does that accurately reflect the amount of work
21 that you performed at Black Angus Meats in that
22 year?

23 MS. BAHAS: Object to the form.

1 THE WITNESS: Yes.

2 BY MS. GRECO:

3 Q. Let me show you Exhibit 159, which is the last
4 pay record we received for you, which
5 demonstrates that you were earning sixteen
6 dollars an hour, pay period ending 6/25/17, is
7 that accurate?

8 A. Yes.

9 Q. Have you had a pay raise since June 25, 2017?

10 A. I don't know.

11 Q. Sitting here, you can't tell me if you received a
12 pay raise?

13 A. To my knowledge, no.

14 Q. Let me ask you this. We talked about various pay
15 raises that were reflected in the record. How
16 did you become aware of them?

17 MS. BAHAS: Object to the form.

18 BY MS. GRECO:

19 Q. You can answer.

20 A. I don't know. Maybe if Bob or Diane may have
21 come to me and said it, I would know.

22 Q. Would they normally do that?

23 A. They have.

1 Q. Were you ever evaluated for your work
2 performance?

3 A. No, not to my knowledge.

4 Q. Did they ever tell you anything when they gave
5 you a pay raise?

6 A. No.

7 Q. Did you find that odd after all your years of
8 management?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: No.

11 BY MS. GRECO:

12 Q. Let me show you what's been marked as Exhibit
13 236. Do you recognize that picture?

14 A. Yes.

15 Q. What is it?

16 A. It's Black Angus Meats.

17 Q. Have you ever seen the help wanted sign in the
18 window at Black Angus Meats?

19 A. Yes.

20 Q. Were you aware -- where the butcher block was
21 located, did you ever see individuals come in and
22 request applications?

23 A. Yes.

1 Q. During the time that you worked at Black Angus
2 Meats, have there been any butchers that were,
3 other than -- strike that. During the time you
4 worked at Black Angus Meats, were there any meat
5 cutters other than Caucasian males?

6 A. No.

7 Q. During the time you worked at Black Angus Meats,
8 did you ever see an African American individual
9 requesting an application for employment?

10 A. Yes.

11 Q. And can you give me an estimate of how many
12 African American individuals requested employment
13 applications in the year 2017?

14 A. No. The only thing I can tell you is if you come
15 in and ask for an application, you got an
16 application. You filled it out, some people took
17 them home, some people filled them out there.
18 When they had them filled out, we'd take them
19 into the office and the office would go from
20 there. They would look it over.

21 Q. You, did you yourself ever receive an application
22 that was completed?

23 A. No.

1 Q. Did you yourself ever bring an application in the
2 back?

3 A. Never.

4 Q. Who were the applications brought to?

5 A. Either Diane, Bob or Keegan.

6 Q. And do you know where their office is located?

7 A. Yes.

8 Q. And from where their office is located, can they
9 look out the window and see?

10 A. No.

11 Q. Could they stand up and see you through the
12 window?

13 MS. BAHAS: Object to the form.

14 THE WITNESS: They would have to come over to the
15 window to see me. The chairs and stuff in there,
16 no, they couldn't see me.

17 BY MS. GRECO:

18 Q. Can you see your work station if you're in their
19 office?

20 A. Keegan's office, yes, but not Diane's or Bob's.

21 Q. Has Keegan always had that office?

22 A. Yes.

23 Q. When you started working, was Keegan Roberts a

1 manager when you started working in 1999?

2 A. I don't even think Keegan was there.

3 Q. So my question is -- strike that. Let me show
4 you Exhibit 237. Do you recognize that document?

5 A. Yes.

6 Q. What is it?

7 A. It's the meat room.

8 Q. And in that document, can you recognize where you
9 worked?

10 A. Yes -- I can't see it here, no. See where this
11 is, I'm around the corner here.

12 Q. See where the circle is? Is that the area where
13 the butcher block is?

14 A. Yes, but you can't see it from this picture.

15 Q. Looking at this picture, you can see where --

16 A. There's the window where Keegan's office is.

17 Q. Where it is now? At that point, is that the
18 office where -- well, did Diane Seibert and
19 Robert Seibert share an office when you started
20 in 1999?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: Yes.

23 BY MS. GRECO:

1 Q. Was that the office they shared?

2 A. No.

3 Q. Where did they work?

4 A. There was another office over here.

5 Q. So who was in this office?

6 A. This one, well, at that time, there was another
7 lady that was there. She was the manager at the
8 time.

9 Q. Aren't those rooms interconnected where you said
10 Keegan Roberts now works and Diane works?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: They're connected.

13 BY MS. GRECO:

14 Q. So if you go into that office where the window
15 is --

16 A. You can't get in. There's only one door.

17 Q. There's one door to get in. How do you get in?

18 A. There's a door -- there's a door right here, over
19 here, okay.

20 Q. When you say here, you mean --

21 A. Here's Keegan's office. There's a door right
22 over in here, but you don't see it in the
23 picture.

1 Q. There's a door when you walk in and then you walk
2 into the office where you say Keegan Roberts is
3 now?

4 A. You would walk in what I would call the main
5 office first and you'd make a left and that would
6 be Keegan's office.

7 Q. Who's in the main office?

8 A. Diane and Bob.

9 Q. So that's what I'm saying. Diane and Bob are in
10 the main office?

11 A. Correct.

12 Q. That's where the desk is?

13 A. There's two desks in there.

14 Q. Two desks in the office where Diane and Bob are?

15 A. Correct.

16 Q. And then you go to your left, and is there a door
17 you have to open to get to the area where Keegan
18 Roberts is?

19 A. There's a door there but it's never shut.

20 Q. So then you could just walk into the area where
21 Keegan Roberts worked or whoever was the manager
22 at the time, is that true?

23 MS. BAHAS: Object to the form.

1 THE WITNESS: If you wanted to. I had no reason to
2 walk in there.

3 BY MS. GRECO:

4 Q. I'm not asking you to. I'm trying to describe
5 what it looks like.

6 A. Okay.

7 Q. So when an individual would get the application,
8 they would walk into where Diane was, if you
9 know?

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. Do you know?

13 A. Yes.

14 Q. Well, how do you know?

15 A. Because I would see them go in.

16 Q. Would you see them from the window?

17 MS. BAHAS: Object to the form. What window?

18 BY MS. GRECO:

19 Q. Once they went in, do you know where they went?

20 A. Whoever was there, if Bob was there, they'd go in
21 to Bob. If Diane was there, they'd go in to
22 Diane.

23 Q. I want to know what you saw standing at the

1 butcher block. You would see the person go in?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: I would see them go in. Who they
4 talked to, I don't know.

5 BY MS. GRECO:

6 Q. I'm asking what you observed, what you witnessed.
7 So you would see an employee take the application
8 and go in the doorway that led to the office of
9 Diane or Robert Seibert?

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. You can answer.

13 A. Yes.

14 Q. But you wouldn't hear their conversation?

15 A. No.

16 Q. And you wouldn't know if they got up and walked
17 to the window to look outside?

18 MS. BAHAS: Object to the form.

19 THE WITNESS: No.

20 BY MS. GRECO:

21 Q. And you never discussed applications with -- did
22 you ever discuss employment applications of
23 anyone, other than yourself, with Robert Seibert?

1 A. No.

2 Q. Did you ever discuss employment applications of
3 anyone other than yourself with Diane Seibert?

4 A. No.

5 Q. Did you ever discuss employment applications of
6 anyone other than yourself with --

7 A. Keegan?

8 Q. Keegan Roberts?

9 A. No.

10 Q. Did you ever discuss employment applications at
11 Black Angus Meats for anyone other than yourself
12 with any employees of Black Angus Meats including
13 Debbie Negrych or anyone else?

14 A. No.

15 Q. It's fair to say, you don't know what Diane
16 Seibert might have said to the employee who
17 brought the application in?

18 A. It's none of my business.

19 Q. How many African American individuals have you
20 worked with at Black Angus Meats?

21 A. One that I can recall.

22 Q. Who's that?

23 A. Frank.

1 Q. Is that Franklin Bennett?

2 A. I don't know his last name.

3 Q. Do you know if Mr. Bennett started working after
4 Darcy Black left Black Angus Meats?

5 A. I don't know.

6 Q. Do you know if Mr. Bennett -- do you know how
7 many hours Mr. Bennett worked at Black Angus
8 Meats?

9 A. No.

10 Q. Assuming in the year 2010 Mr. Bennett earned,
11 according to the Black Angus Meats record, two
12 hundred forty dollars, would you agree with me he
13 didn't work very much?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. If you know.

17 A. I have no idea what anybody works or what anybody
18 makes.

19 Q. You're there, my question to you is, would Mr.
20 Bennett be there regularly when you were there or
21 was he just a very casual, occasional employee?

22 MS. BAHAS: Object to the form.

23 THE WITNESS: The only thing I can tell you, I've

1 seen him there and I've seen him working there.

2 What he does, I don't know.

3 BY MS. GRECO:

4 Q. Do you know if he started work in December of
5 2010?

6 A. I have no clue.

7 Q. Do you recall him working at any time during the
8 time Darcy Black was there?

9 A. No.

10 Q. Can you name any minority employee, by that I
11 mean someone who is non-Caucasian that worked at
12 Black Angus Meats during the time Darcy Black was
13 there?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: No.

16 BY MS. GRECO:

17 Q. Do you know what type of work Franklin Bennett --
18 does Franklin Bennett still work at Black Angus
19 Meats?

20 A. Yes.

21 Q. What type of work does he do now?

22 A. Does whatever they ask him to.

23 Q. Does he cut meat?

1 A. No.

2 Q. Does he pack meat?

3 A. He has.

4 Q. Do you know when he started to pack meat?

5 A. No clue.

6 Q. Fair to say the only thing you'd be aware of what
7 he did is whether or not he cut meat?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. Yes, I know he didn't cut meat.

12 Q. Do you know if any minority applicant, by that, I
13 mean anyone who was non-Caucasian were actually
14 interviewed by anyone at Black Angus Meats?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You personally know?

18 A. No.

19 Q. How long have you known the Seiberts?

20 A. Since I started working there.

21 Q. Do you do anything socially with the Seiberts?

22 A. They used to have a party at their house every
23 year that I'd attend. Other than that, no.

1 Q. Do they still have the party every year?

2 A. No.

3 Q. When did they stop having it?

4 A. Maybe three, four years ago.

5 Q. Did you ever see Darcy Black at a party at the
6 Seiberts' house?

7 A. Yes.

8 Q. Do you know how many times?

9 A. I seen her once I'm sure of.

10 Q. And what was that party?

11 A. It was like a pig roast.

12 Q. Do you have any recollection of seeing her any
13 other time at the Seiberts?

14 A. No.

15 Q. And are you a personal friend of Keegan Roberts?

16 A. I know him. I don't socialize with him. I know
17 him.

18 Q. How do you know him?

19 A. Through Black Angus.

20 Q. Okay. And other than knowing him at work, do you
21 do anything with him outside of work?

22 A. I've had a drink with him once or twice, but
23 other than that, no.

1 Q. What do you mean by a drink?

2 A. Gone to a bar with him.

3 Q. After work?

4 A. Yes.

5 Q. Did you two go alone or with other people?

6 A. I think it was just us.

7 Q. Do you know when the last time you did that or do

8 you recall the one or two times that you did

9 that?

10 A. It's years.

11 Q. Do you know Nicole Seibert?

12 A. Yes.

13 Q. And has she worked the entire time at Black Angus

14 Meats while you worked there from 1999?

15 A. Yes. I can remember her starting there, yes.

16 Q. Did she work there full-time at any point?

17 A. At one point she did.

18 Q. Was that after she left her other job?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. Do you know?

22 A. I don't know. I would say yes.

23 Q. Do you know a person by the name of William

1 Frase, F-R-A-S-E?

2 A. Yes.

3 Q. Does he have a nickname?

4 A. Turtle.

5 Q. Do you know when Turtle, William Frase started
6 working at Black Angus Meats?

7 A. No, I don't.

8 Q. Do you know if he worked there prior to 2010 --
9 I'm sorry. Do you know if he worked there prior
10 to July 26th, 2009?

11 A. No, I don't.

12 Q. Did he work in the pack room?

13 A. Yes.

14 Q. Did he work in the pack room during the time
15 Darcy Black worked in the pack room?

16 A. I would say yes.

17 Q. Did he start work at seven o'clock in the
18 morning?

19 A. Yes.

20 Q. And so you said when you would open at six, at
21 the time when Mr. Frase was coming in at seven
22 o'clock in the morning, do you recall who else
23 was coming in at seven o'clock in the morning?

1 A. Debbie.

2 Q. Was Darcy Black coming in at that time too?

3 A. I believe Darcy's starting time was also seven
4 o'clock, yes.

5 Q. Did Sean Round start at seven o'clock?

6 A. No.

7 Q. When did Sean Round start?

8 A. I have no clue, but it wasn't seven o'clock.

9 Q. Do you know if he was scheduled to work from
10 seven o'clock in the morning when he started?

11 A. I really don't know his schedule, but he was a
12 driver so he worked a lot at night.

13 Q. Did he start as a driver?

14 A. I don't think so, no.

15 Q. Did he start as a packer?

16 A. Yes.

17 Q. Did he also work the front counter?

18 A. Yes.

19 Q. Did he also do wrapping?

20 A. Yes.

21 Q. There came a time when he did driving?

22 A. Yes.

23 Q. Do you recall anything else he did?

1 A. No.

2 Q. Was he ever trained to be a meat cutter?

3 A. No.

4 Q. Was Jamie Lapress ever trained to be a meat
5 cutter?

6 A. Yes. I've worked with Jamie and I've showed him
7 a lot and I worked with him days, yes.

8 Q. Let's go back to the year 2009. Was Jamie
9 Lapress a meat cutter then?

10 A. He was learning.

11 Q. Do you know at what stage he was in 2009?

12 A. Certain things he could do.

13 Q. Do you recall specifically in 2009 what he could
14 do?

15 A. Yes. He could -- we cut a lot of chickens. Like
16 he was there later than myself at night. If
17 someone come in and they wanted a strip steak or
18 a Porterhouse, he could cut that.

19 Q. Did you teach him how to do that?

20 A. Yes.

21 Q. Were you aware of Darcy Black being able to cut
22 chickens?

23 A. I never seen her cut chicken.

1 Q. Were you aware of Darcy Black being able to cut
2 strip steaks?

3 A. Never seen her do it.

4 Q. Were you aware of Darcy Black learning to do that
5 by watching?

6 A. To my knowledge, no.

7 Q. Did you ever teach her to do anything relative to
8 meat cutting?

9 A. No.

10 Q. Did you ever teach her to make cube steaks?

11 A. No.

12 Q. You have no recollection of teaching her how to
13 make cube steaks?

14 MS. BAHAS: Objection. Asked and answered.

15 BY MS. GRECO:

16 Q. Would you agree with me if Darcy Black could
17 butterfly chickens, that that's something a meat
18 cutter does?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Usually.

21 BY MS. GRECO:

22 Q. Would you agree with me that if Darcy Black knew
23 how to make cube steaks in the cube machine,

1 that's something a meat cutter did?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. You can answer.

5 A. I mean, anybody -- I mean, any time the cube
6 steaks are made, they're cut, just like taking
7 this and dropping it through the cuber. It's not
8 making it. I would make them, no one else would.

9 Q. Who would use the cubing machine?

10 A. I do.

11 Q. Do you ever recall teaching Darcy Black how to
12 use the cube machine?

13 A. No.

14 Q. If Darcy Black used the cube machine, she would
15 be doing the job of a meat cutter, isn't that
16 true because that's what you did?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: Yes.

19 BY MS. GRECO:

20 Q. Were you aware of Darcy Black cutting a strip
21 steak for a customer when you were not there?

22 A. No.

23 Q. Would you agree with me that cutting a strip

1 steak, if she could cut a strip steak, that's one
2 of the functions of a meat cutter?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: Yes.

5 BY MS. GRECO:

6 Q. Were you aware of Darcy Black cutting boneless
7 meat such as making boneless pork chops?

8 A. No.

9 Q. Were you aware of Darcy Black -- is it fair to
10 say if Darcy Black was cutting boneless pork
11 chops, that that was a job of a meat cutter?

12 MS. BAHAS: Object to the form.

13 THE WITNESS: Yes.

14 BY MS. GRECO:

15 Q. Were you aware of Darcy Black cutting pork roast
16 other than the three pound roast that you kept on
17 the counter?

18 MS. BAHAS: Object to the form.

19 THE WITNESS: No.

20 BY MS. GRECO:

21 Q. If Darcy Black cut boneless pork roast, would
22 that be fair to say that's the job of a meat
23 cutter?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: Yes.

3 BY MS. GRECO:

4 Q. Do you recall leaving boneless meat on a rack in
5 the cooler so if it was necessary, it could be
6 cut into a steak?

7 A. No.

8 Q. Well, when the meat cutter isn't there and a
9 customer wants meat cut, what happens?

10 A. Jamie is there.

11 Q. Do you recall what time Jamie Lapress was not
12 cutting any meat?

13 A. I don't understand your question.

14 Q. Do you recall any time when Darcy Black was
15 providing meat cutting services to customers
16 after you were not there?

17 A. The only thing I could say on that is there's no
18 reason for her to do it because Jamie was always
19 there.

20 Q. Really?

21 A. He was always there at night, he closed.

22 Q. What time would he come in?

23 A. Noon.

1 Q. Were you always there up to noon?

2 A. Usually, yes.

3 Q. You would start at approximately six o'clock and
4 you would always be there at noon?

5 A. The days I was there, yes.

6 Q. What about the days you weren't there?

7 A. Mark was there.

8 Q. How do you know that Darcy Black never cut meat
9 for a fact?

10 A. I don't. You asked me if I ever asked her to cut
11 meat.

12 Q. No, I didn't.

13 A. What did you ask me?

14 Q. I said do you know if she ever did it.

15 A. To my knowledge, no.

16 Q. And do you recall her asking you to have the
17 opportunity to cut meat?

18 A. No, but I wouldn't be the person to ask.

19 Q. Do you recall ever telling Darcy Black that that
20 would not be something you would decide -- strike
21 that. Do you ever recall telling Darcy Black
22 that you couldn't teach her that because you
23 can't go above your authority?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: If you're asking me did Darcy ask me to
3 cut meat?

4 BY MS. GRECO:

5 Q. Yes.

6 A. To my knowledge, no, she never asked me that.

7 Q. Do you recall ever telling her that you couldn't
8 teach her to cut meat because that would be going
9 above your authority?

10 A. If she asked me that, I would have told her that,
11 yes.

12 Q. So that answer sounds like a response you would
13 have made?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. You can answer.

17 A. I would have said that, yes.

18 Q. Do you recall Darcy Black -- is it hard to make
19 sausage?

20 MS. BAHAS: Object to the form.

21 THE WITNESS: I've never made it at Black Angus.

22 BY MS. GRECO:

23 Q. So when you were there, who was making sausage?

1 A. Usually Jamie or Mark.

2 Q. And there was a time when Mark Leible was not at
3 Black Angus Meats, isn't that true?

4 A. Correct.

5 Q. When he was not at Black Angus Meats, who was
6 making sausage?

7 A. Jamie.

8 Q. So Jamie Lapress was making sausage at Black
9 Angus Meats during the time period Mark Leible
10 was not there, is that what you believe?

11 A. Yes.

12 Q. Did Jamie Lapress have any performance problems?

13 MS. BAHAS: Object to the form.

14 THE WITNESS: Meaning what?

15 BY MS. GRECO:

16 Q. Meaning was he on time to work?

17 A. Not all the time, no.

18 Q. Would he come in when you were there?

19 A. Sometimes.

20 Q. Well, that's what I'm trying to find out. When
21 you -- you said you would leave at what time?

22 A. Roughly twelve o'clock.

23 Q. And was that scheduled at some point --

1 originally there was a time when Jamie Lapress
2 was scheduled to be at work at seven o'clock in
3 the morning.

4 MS. BAHAS: Object to the form.

5 THE WITNESS: Never.

6 BY MS. GRECO:

7 Q. You don't remember that?

8 A. Never.

9 Q. If I tell you he testified that there was a time
10 he was scheduled to come in at seven a.m., would
11 you say that you don't remember?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. You can answer.

15 A. It might have been one day or two days or
16 something like that. But Jamie was the clean-up
17 guy. He closed at night and they wouldn't ask
18 him to come in at seven o'clock in the morning.
19 Maybe there was one or two times if they had a
20 special order or something like that. They asked
21 him on a regular basis, no.

22 Q. And you would leave at noon when he came in
23 there?

1 A. Approximately, yes.

2 Q. And is it fair to say that -- well, he testified
3 he was spoken to seventy times by Keegan Roberts,
4 over seventy times about being late. Does that
5 surprise you?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Does what surprise me?

8 BY MS. GRECO:

9 Q. That Jamie Lapress was late to work and spoken to
10 over seventy times because of it?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: I would say it probably was true.

13 BY MS. GRECO:

14 Q. So it's fair to say that either you worked later
15 than twelve o'clock or Mr. Lapress -- strike
16 that. So you would say that was true, and what
17 did Black Angus Meats do about this chronic
18 problem with Mr. Lapress?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. You can answer if you know.

22 A. Yes, I do know. Jamie had a starting time. He
23 was a little bit late, but Jamie never had a

1 quitting time. So if he came in ten or fifteen
2 minutes late, he'd stay at night till eight,
3 nine, ten o'clock.

4 Q. When do customers leave Black Angus Meats?

5 A. Store closes at seven.

6 Q. So if he has a starting time at noon and he comes
7 in at one --

8 A. No, he was never that late.

9 Q. How do you know if you weren't there?

10 A. Because I know.

11 Q. Because you were there?

12 A. No, I wasn't there. I would be told.

13 Q. Who would tell you?

14 A. Somebody there. It's a small place. Everyone
15 knows everybody.

16 Q. Did you ever complain that Mr. Lapress wasn't
17 coming to work on time?

18 A. It wasn't my business to.

19 Q. Were you ever surprised that no action was taken
20 regarding his failure not to be there on time?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: It was none of my business.

23 BY MS. GRECO:

1 Q. And you previously testified that your hours of
2 work, you would leave at two or three o'clock?

3 MS. BAHAS: Object to the form. I don't believe he
4 testified to that.

5 THE WITNESS: My hours varied every week. Every day
6 they varied.

7 BY MS. GRECO:

8 Q. Every day they varied?

9 A. Yes.

10 Q. So could you pick your own hours?

11 A. I'd come in every morning and when my work was
12 done, I'd leave.

13 Q. And was Black Angus a busy place -- strike that.
14 How many employees are at Black Angus Meats?

15 A. Maybe twelve, fifteen.

16 Q. So approximately the size of Isenberg Meats?

17 MS. BAHAS: Object to the form. He didn't testify to
18 that.

19 BY MS. GRECO:

20 Q. You testified how many people were at Isenberg
21 Meats.

22 A. It's close. Maybe three, four employees either
23 way, yes.

1 Q. How many meat cutters were at Isenberg Meat?

2 A. Six. See, you don't seem to understand --

3 MS. BAHAS: There's not a question.

4 MS. GRECO: Could we take a lunch break now?

5 (Whereupon, a short recess was then taken
6 for lunch.)

7 BY MS. GRECO:

8 Q. For the record, I have handed to the opposing
9 counsel Exhibit 269, which is the payroll
10 pre-checkwriting report for the December 27, 2004
11 to January 2, 2005, DEF0513.

12 Exhibit 270 is a W-2 report for Nelson
13 Schultz for the year 2005.

14 Exhibit 271 is the pre-checkwriting report
15 for pay period April 24, 2006 to April 30, 2006
16 and May 1, 2006 to May 7, 2006.

17 Exhibit 272, the W-2 report for Nelson
18 Schultz for the year 2006.

19 Exhibit 273, the payroll pre-checkwriting
20 report for pay periods January 1, 2007 to January
21 7, 2007 and January 8, 2007 to January 14, 2007.

22 Exhibit 274, the W-2 report for 2007 for
23 Nelson Schultz.

1 Exhibit 275, the payroll pre-checkwriting
2 reports for the pay periods January 14, 2008 to
3 January 20, 2008 and January 28, 2008 to February
4 3, 2008.

5 Exhibit 276, the payroll pre-checkwriting
6 report for the pay period June 2, 2008 to June 8,
7 2008 for Nelson Schultz.

8 And Exhibit 277, which is the W-2 report for
9 the year 2008 from Nelson Schultz.

10 Do you recall that Nelson Schultz last
11 worked on or about June 2008?

12 A. I don't know.

13 Q. Would that be inconsistent with your
14 recollection?

15 MS. BAHAS: Object to the form. Asked and answered.

16 BY MS. GRECO:

17 Q. Do you know what that means? Does that --

18 A. I know he's been gone a while. How long, I don't
19 know.

20 Q. Would you have any knowledge as to the number of
21 hours that Mr. Schultz worked while he was at
22 Black Angus Meats?

23 A. I have no idea.

1 Q. Did you ever work at the same time Mr. Schultz
2 worked at Black Angus Meats, meaning on the same
3 day during the same time period?

4 A. I would say no.

5 Q. Did Mr. Schultz ever train you in any way?

6 A. No.

7 Q. Are you married?

8 A. Pardon?

9 Q. Are you married?

10 A. No.

11 Q. Were you married before?

12 A. Yes.

13 Q. And I believe you said you're a widower?

14 A. Yes.

15 Q. Who were you married to?

16 A. Who was I married to? Her name was Arlene
17 Regalla, R-E-G-A-L-L-A.

18 Q. And when did you get married?

19 A. When I was eighteen, so whenever that was.

20 Q. And were you continuously married until your wife
21 died?

22 A. Yes.

23 Q. When was that that she was deceased?

1 A. About '91.

2 Q. And you have not remarried?

3 A. No.

4 Q. Do you have any children?

5 A. Three.

6 Q. And what are their names?

7 A. Debra, Christopher and Patrick.

8 Q. And what is Debra's date of birth?

9 A. I don't know. It's January 11, I know.

10 Q. Do you know how old she is now?

11 A. She's right around fifty-eight.

12 Q. And how about Christopher, do you know his date
13 of birth?

14 A. Yes, I can't forget that one, 9/11.

15 Q. Do you know what year?

16 A. No, not offhand.

17 Q. Do you know how old he is?

18 A. About forty-two.

19 Q. And how about Patrick, do you know his date of
20 birth?

21 A. 11/3.

22 Q. And how old is he?

23 A. Fifty, fifty-one.

1 Q. Was Arlene, your wife, ever employed at Black
2 Angus Meats?

3 A. No.

4 Q. Was she ever employed at any company that
5 involved meat products?

6 A. No.

7 Q. Is Debra employed?

8 A. Pardon?

9 Q. Debra your daughter?

10 A. No, she's retired.

11 Q. Where did she work before?

12 A. She was a nurse.

13 Q. And did she go to school right after high school
14 and right into nursing?

15 A. Correct.

16 Q. Did she ever work at Black Angus Meats at any
17 time?

18 A. Never.

19 Q. How about Christopher?

20 A. Yes, he did work there.

21 Q. But does Christopher have a trade?

22 A. I taught him how to cut meat.

23 Q. So has he been a meat cutter his whole life?

1 A. No.

2 Q. So let's go backwards. Patrick, did he graduate
3 high school -- Christopher, did Christopher
4 graduate high school?

5 A. Yes.

6 Q. What did he become employed doing?

7 A. He works for U.S. Foods.

8 Q. Where you worked?

9 A. Yes.

10 Q. So when did he start working at U.S. Foods?

11 A. He's been there about seventeen, eighteen years.

12 Q. And was he one of the meat cutters that you
13 trained at U.S. Foods?

14 A. No.

15 MS. BAHAS: I don't believe he trained any meat
16 cutters at U.S. Foods.

17 BY MS. GRECO:

18 Q. Did you train any meat cutters at U.S. Foods?

19 A. No.

20 Q. Did anyone else there train meat cutters at U.S.
21 Foods?

22 A. No. They come in as meat cutters.

23 Q. I remember that. You said he's worked there

1 seventeen or eighteen years?

2 A. Yes.

3 Q. Did he start working there in his twenties?

4 A. If that's what seventeen, eighteen years is, yes.

5 Q. So where did he work before he worked there?

6 A. He worked for the City of Buffalo.

7 Q. Doing what?

8 A. He worked on the Mayor's impact team.

9 Q. Did he work as a meat cutter?

10 A. No.

11 Q. What did he do in the Mayor's impact team?

12 A. Whatever they wanted him to do. Clean up
13 neighborhoods or something like that.

14 Q. How long did he work there?

15 A. I don't know. Two, three, four years. I don't
16 know.

17 Q. Where did he work before that?

18 A. I don't know.

19 Q. Or did he go right there after high school?

20 A. He might have went there right after high school.

21 Q. Did he have any job as a meat cutter prior to
22 U.S. Foods?

23 A. No.

1 Q. So fair to say he had no job experience as a meat
2 cutter when he was hired at U.S. Foods?

3 A. No. When he was hired at U.S. Foods, he worked
4 in the fish department.

5 Q. How long did he work in the fish department?

6 A. He's still in there now. He's a meat cutter
7 there and fish department, he works both. In
8 fact, he runs the fish department.

9 Q. You said he started in the fish department?

10 A. Yes.

11 Q. As what?

12 A. Sorter, handler.

13 Q. And then you said there came a time when he --
14 strike that. Is the fish department separate
15 from the meat department?

16 A. Yes.

17 Q. And you said there came a time when he went to
18 work for the meat department?

19 A. Correct. He works both. He'll go in in the
20 morning and do his fish thing and then he'll go
21 in the meat room.

22 Q. In the afternoon?

23 A. Correct.

1 Q. When did that start that he started going in the
2 meat room?

3 A. Say five, six years ago.

4 Q. Did he have any meat cutting experience with any
5 company prior to doing meat cutting at U.S.
6 Foods?

7 A. No. He used to come in to me at Angus when I
8 worked there. He did work at Angus but he would
9 come in on a Saturday or something like that and
10 I would show him different things to do. Like
11 when you work at U.S. Foods, you usually work on
12 one item. So he would come in to me and say dad,
13 they're teaching me on this, would you show me,
14 so I would show him. So I really taught him the
15 meat business, but I taught it to him at Angus.

16 Q. Was he an employee at Black Angus Meats?

17 A. Yes.

18 Q. So you taught him to be a meat cutter while he
19 worked for Black Angus Meats?

20 A. Yes.

21 Q. What was he doing for Black Angus Meats -- well,
22 did you have to get permission to teach him to be
23 a meat cutter on paid time?

1 A. No, it wasn't on paid time, it was on his own
2 time. I asked Bob if I could teach Chris if he'd
3 come in, like on a Saturday, he'd come in for
4 one or two hours and I would teach him different
5 things.

6 Q. That's what I'm asking. Was he an employee at
7 Black Angus Meats at that time?

8 A. Yes.

9 Q. Was he paid for his time?

10 A. When I taught him how to cut meat there?

11 Q. Yes.

12 A. No.

13 Q. So he volunteered?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. I'm trying to figure out how it worked. Why
17 don't you tell me how that worked.

18 A. I'm trying to.

19 Q. How many hours a week -- strike that. Prior to
20 you teaching him how to cut meat, what, if
21 anything, did he do at Black Angus Meats?

22 A. He waited on the counter.

23 Q. When did he start waiting on the counter?

1 A. From the day he started working there.

2 Q. When did he start working there?

3 A. I couldn't tell you.

4 Q. Let me show you what's been marked as Exhibit
5 278, which for the record is the pre-checkwriting
6 report for the pay period February 4, 2008 to
7 February 10, 2008 for Christopher Howells. Does
8 that -- for the record, this is the first pay
9 period that we were given for Mr. Howells. So my
10 question to you is, does that help refresh your
11 recollection when Christopher started working at
12 Black Angus Meats?

13 A. No.

14 Q. Let me show you the chart in front of you,
15 Exhibit 209 that was provided to us by Black
16 Angus Meats. I'd like you to go to the second
17 page. Do you see where it says Christopher
18 Howells, Caucasian male, date of hire 2/1/08?

19 A. Yes.

20 Q. Do you see it says his hiring rate is eleven
21 dollars an hour?

22 A. Yes.

23 Q. You see it says he worked front counter, venison

1 grinder and meat cutter. Is it fair to say when
2 he started at Black Angus Meats he was not a
3 venison grinder or meat cutter?

4 A. Yes, he worked deer season.

5 Q. When he started at Black Angus Meats, was he a
6 meat cutter?

7 A. No.

8 Q. So is it fair to say, if he started on or about
9 February 1, 2008, he was not a meat cutter at
10 that time?

11 A. No.

12 Q. Is that fair to say or not?

13 A. Yes.

14 Q. Because he was working the front counter and you
15 hadn't taught him yet, right?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: Yes.

18 BY MS. GRECO:

19 Q. He was working the front counter, and do you know
20 what his hourly rate of pay was at that time?

21 A. No.

22 Q. Looking at that Exhibit 278, which is in front of
23 you, it shows that Christopher Howells worked

1 twenty point five hours and earned two hundred
2 and forty-six dollars. Do you recognize that as
3 twelve dollars an hour?

4 A. Yes. He'd come in after work because he still
5 worked at U.S. Foods.

6 Q. So is it your recollection he would work
7 full-time at U.S. Foods and work twenty point
8 five hours a week at Black Angus Meats at that
9 time?

10 MS. BAHAS: Object to the form.

11 BY MS. GRECO:

12 Q. If you know?

13 A. It would vary.

14 Q. Who would make his schedule up?

15 A. Diane.

16 Q. And he was a front counter person, you said
17 initially?

18 A. Yes.

19 Q. And for how long was he on the front counter?

20 A. As long as he worked there.

21 Q. Okay. Was that his main job?

22 A. Yes.

23 Q. So you never trained him to be a meat cutter

1 there?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. You trained him to be a meat cutter for somewhere
5 else, is that true?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: I didn't train him to be a meat cutter.
8 He didn't want to be a meat cutter at Black
9 Angus. He wanted me to teach him how to be a
10 meat cutter for U.S. Foods.

11 BY MS. GRECO:

12 Q. So teaching him to be a meat cutter was separate
13 from his job at Black Angus Meats?

14 A. Yes.

15 Q. And at Black Angus Meats, he was on the front
16 counter?

17 A. Correct.

18 Q. Was he on the front counter the whole time he
19 worked there?

20 A. He used to grind.

21 Q. When did he start grinding meat?

22 A. From the day he worked there.

23 Q. Did he know how to grind meat before he went to

1 Black Angus Meats?

2 A. I showed him.

3 Q. Listen to the question. Before he started
4 working at Black Angus Meats in 2008, in February
5 2008, did he know how to grind meat?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: He had never ground it before, so I'd
8 say no.

9 BY MS. GRECO:

10 Q. That's what I'm trying to find out. Maybe
11 somebody else taught him, I don't know, that's
12 why I'm asking you.

13 So when he started work there, he was a
14 front counter person and had no experience
15 cutting meat or grinding meat, is that fair to
16 say?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: Yes.

19 BY MS. GRECO:

20 Q. And then there came a time when you taught him
21 how to grind meat?

22 A. Correct.

23 Q. How long after he started working at Black Angus

1 Meats did you teach him how to grind meat?

2 A. Maybe two weeks.

3 Q. Was it hard to teach him how to grind meat?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: No.

6 BY MS. GRECO:

7 Q. Even though he was only working on a limited

8 part-time basis -- even though he was working on

9 a limited part-time basis, why did you teach him

10 to grind meat?

11 MS. BAHAS: Object to the form.

12 BY MS. GRECO:

13 Q. You can answer.

14 A. Because he was there and I know he'd do a good

15 job.

16 Q. Did you ask permission of any of the owners of

17 Black Angus Meats whether you could teach him to

18 grind meat?

19 A. Yes.

20 Q. Who did you ask?

21 A. Bob.

22 Q. What did he say?

23 A. Yes.

1 Q. And did you teach him during regular working
2 hours while Christopher was working to grind
3 meat?

4 A. Yes.

5 Q. And you knew at that time that he did not want to
6 continue working at Black Angus Meats?

7 MS. BAHAS: Object to the form.

8 BY MS. GRECO:

9 Q. You can answer. But his goal was to cut meat at
10 the job he had with U.S. Foods, right?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: I'll answer it this way. To work at
13 Black Angus Meats, there wasn't a full-time job
14 there. He wasn't going to quit his full-time job
15 with all kind of benefits to come to Black Angus
16 for part-time work.

17 BY MS. GRECO:

18 Q. You also told us U.S. Foods had great benefits.

19 A. They did.

20 Q. And he already had a job there, right?

21 A. Correct.

22 Q. And that's why you recommended he get a job
23 there, isn't that true?

1 A. I got him the job there.

2 Q. I understand. So what I'm saying is, it was his
3 goal and yours to be able to get him a better job
4 at U.S. Foods, isn't that true, to be ultimately
5 a meat cutter there?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Yes.

8 BY MS. GRECO:

9 Q. Is he a meat cutter there now?

10 A. Part-time meat cutter, part-time fish person.

11 Q. But he's able to do meat cutting there?

12 A. Correct.

13 Q. My question is, is it fair to say that when you
14 taught him how to do meat grinding, that was not
15 on Black Angus time or was it?

16 A. That was on Black Angus time.

17 Q. How long did you teach him to grind meat?

18 A. How long what?

19 Q. Did it take him to grind meat?

20 A. Couple hours.

21 Q. And he was successful in doing that?

22 A. Yes.

23 Q. And then how long did it take for you to decide

1 to teach him to cut meat?

2 A. He asked me.

3 Q. And did you train him to cut meat on Black Angus'
4 time, meaning while he was paid?

5 A. No.

6 Q. Did you ask Bob if you could teach him to cut
7 meat during Black Angus' time?

8 MS. BAHAS: Object to the form.

9 THE WITNESS: No.

10 BY MS. GRECO:

11 Q. Why not?

12 A. Because it wasn't necessary. He would get up on
13 a Saturday, he lived around the corner, got up on
14 a Saturday and he'd come over to me and say, dad,
15 they're putting me on sirloins, will you show me
16 how to do sirloins. So I'd show him, he'd stay
17 an hour, hour and a half and leave.

18 Q. So he was learning how to be a meat cutter at
19 U.S. Foods when he asked you to help him.

20 A. Correct.

21 Q. So he would be working at his job at U.S. Foods
22 learning how to do this and basically want to
23 come and practice with you at Black Angus Meats?

1 A. Correct.

2 Q. Is that fair to say?

3 A. Yes.

4 Q. And he was not paid during that time?

5 A. Right.

6 Q. Is it fair to say his work at Black Angus Meats

7 was not as a meat cutter, but he did do meat

8 cutting on his time to learn the skill?

9 A. Yes.

10 Q. Did he make sausage at Black Angus Meats or was

11 that also something he was learning at U.S. Foods

12 and came to practice with you?

13 A. We didn't make sausage at U.S. Foods and he never

14 made sausage at Angus.

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. So is it fair to say that your son learned how to

18 make sausage at Black Angus Meats but never

19 really did it as part of his job?

20 A. He never made sausage at Black Angus Meats.

21 Q. So that skill was something just to add to his

22 skills?

23 MS. BAHAS: Object to the form. I don't think he

1 testified that he learned how to make sausage.

2 THE WITNESS: No, I never said he made sausage.

3 BY MS. GRECO:

4 Q. Did he grind sausage at Black Angus Meat?

5 A. He ground meat for ground beef and stuff like
6 that and we'd put it in vats and then the sausage
7 maker would come in and make it.

8 Q. That's what you said took a couple hours to teach
9 him to learn how to grind meat?

10 A. Correct.

11 Q. Did he grind meat at Black Angus Meats?

12 A. Yes.

13 Q. And is that something you could have taught Darcy
14 Black to do?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: If I was told to, yes.

17 BY MS. GRECO:

18 Q. Now, did there come a time when your son
19 increased his hours at Black Angus Meats?

20 A. He might have increased them the first two weeks
21 of the month were busier than the last two, so he
22 might have worked a little more the first two
23 weeks versus the last two.

1 Q. I'm asking, on an annual basis, did there come a
2 time when he started working a lot more hours at
3 Black Angus Meats?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. We're talking about Christopher Howells. These
7 questions are all about Christopher Howells.

8 A. I understand. I don't think his hours varied
9 much. Maybe an hour, two, three hours, something
10 like that.

11 Q. Is he still working at Black Angus Meats?

12 A. He worked with me deer season he worked. But as
13 far as working the store and stuff, no, he does
14 not work in it anymore.

15 Q. When did he stop working the store?

16 A. I don't think he's worked the store in a year.

17 Q. Do you know how many hours he was working in 2016
18 at Black Angus Meats?

19 A. I have no clue.

20 Q. But he was still working the counter then?

21 A. If he was there in '16, he was working the
22 counter, yes.

23 Q. Has he always worked at U.S. Foods continuously

1 up till now?

2 A. He's still there today, yes.

3 Q. Always had a full-time job there since he
4 started?

5 A. Yes.

6 Q. Let me show you what I'm now handing to counsel
7 for Defendants, Exhibit 278 through Exhibit 290,
8 which are documents provided to us by Black Angus
9 Meats.

10 MS. BAHAS: 279.

11 BY MS. GRECO:

12 Q. I'm sorry, 278 to 290 -- 279 to 290. I already
13 had given you 278. For the record, these are
14 records provided to us by Black Angus Meats
15 regarding Christopher Howells' pay, and more
16 specifically that Exhibit 278 is the
17 pre-checkwriting report for pay period February
18 4, 2008 to February 10, 2008, Exhibit 278, which
19 we discussed.

20 Exhibit 279 is a W-2 report for 2008 for
21 Christopher Howells.

22 Exhibit 280 is a pre-checkwriting report for
23 the pay periods October 26, 2009 to November 1,

1 2009, and November 2, 2009 through November 8,
2 2009.

3 Mr. Howells, do you recall a time when your
4 son received a raise to thirteen dollars an hour
5 -- strike that. Do you know what, Mr. Howells,
6 do you know when your son started working at
7 Black Angus Meats how much he earned?

8 A. No, I don't.

9 Q. Did you ever learn that he earned twelve dollars
10 an hour when he started in 2008?

11 MS. BAHAS: Asked and answered.

12 THE WITNESS: I have no idea what he made there.

13 BY MS. GRECO:

14 Q. Did you know that in November 2009 for the pay
15 period ending November 8, 2009, he received a one
16 dollar raise to thirteen dollars an hour?

17 A. No.

18 Q. Exhibit 281 is the W-2 report for 2009 for
19 Christopher Howells.

20 MS. BAHAS: Are you going to show him that, 281?

21 MS. GRECO: I'm just identifying it for the record.

22 Exhibit 282 is a W-2 report for 2010 for
23 Christopher Howells.

1 Exhibit 283 is a 2011 W-2 report for
2 Christopher Howells.

3 Exhibit 284 is the 2012 W-2 for Christopher
4 Howells.

5 Exhibit 285 is the payroll journal for the
6 weeks ending 4/14/13 and 5/4/13.

7 Do you recall, Mr. Howells, your son
8 Christopher receiving a raise to thirteen dollars
9 an hour -- well, for May, beginning May of 2013?

10 A. No.

11 Q. Let me show you Exhibit 280. I'd like to
12 identify Exhibit 286, which is the W-2 for
13 Christopher Howells for the year 2013. Did you
14 ever learn that your son earned thirty-five
15 thousand, three hundred eighty-five dollars and
16 nineteen cents in 2013?

17 A. No.

18 Q. Let me ask you about -- well, for the record,
19 Exhibit 287 is Christopher Howells' W-2 for 2014.
20 Did you ever learn that your son earned
21 thirty-two thousand, nine hundred fifty-seven
22 dollars and thirty-seven cents at Black Angus
23 Meats?

1 MS. BAHAS: For the record, these are not in front of
2 the witness.

3 MS. GRECO: I'm asking if he knows. If he says yes,
4 I'll show him the document.

5 MS. BAHAS: So it's clear for the record, because
6 you're referencing the exhibit, I don't want the
7 record to reflect that he had any documents in
8 front of him.

9 BY MS. GRECO:

10 Q. I will show it to him. I'm asking him first if
11 it refreshes his recollection and if not, there's
12 documents to show him.

13 Were you aware, did you ever learn that your
14 son earned -- strike that. Do you have any
15 knowledge of your son earning thirty-two
16 thousand, nine hundred fifty-seven dollars and
17 thirty-seven cents in the year 2014 at Black
18 Angus Meats?

19 A. No.

20 Q. For the record, Exhibit 288 is a W-2 for 2015 of
21 Christopher Howells. All these W-2's were
22 provided by Black Angus Meats. Were you aware or
23 did you ever learn that your son Christopher

1 Howells earned thirty-two thousand, six hundred
2 one dollar and fifty-eight cents at Black Angus
3 Meats in 2015?

4 A. No.

5 Q. With regard to -- for the record, we marked
6 Exhibit 289, which is the W-2 for 2016 for
7 Christopher Howells. Mr. Howells, did you have
8 any knowledge of your son's earnings at Black
9 Angus Meats in the year 2016 being thirty-five
10 thousand, forty-four dollars and fifty-eight
11 cents?

12 A. No.

13 Q. And did you ever discuss your son's earnings with
14 him?

15 A. No.

16 Q. Did you ever see your son's W-2's?

17 A. No.

18 Q. Ever have any discussion with anyone at Black
19 Angus Meats about your son's earnings?

20 A. No.

21 Q. Does Christopher -- strike that. Did Christopher
22 Howells have any relationship with anyone at
23 Black Angus Meats? By that, I mean the Seiberts

1 or Mr. Keegan prior to his beginning employment
2 there?

3 MS. BAHAS: Object to the form.

4 BY MS. GRECO:

5 Q. If you know?

6 A. No.

7 Q. How did he find out there was a job at Black
8 Angus Meats?

9 A. Because of me.

10 Q. And how did you become aware there was a job?

11 A. I don't know how I became of it, but I became
12 aware of it. I don't know the reason.

13 Q. Do you know if your son received vacation time at
14 Black Angus Meats like you did?

15 A. No, I don't.

16 Q. I say your son, we're now referring to
17 Christopher Howells.

18 A. I understand.

19 Q. And you testified you have a son Patrick Howells?

20 A. Yes, I do.

21 Q. And I believe you said he's fifty or fifty-one?

22 A. Could be fifty-two.

23 Q. Did he graduate high school?

1 A. Yes.

2 Q. After he graduated high school, what did he do?

3 A. He worked for me at Sher-Del Foods.

4 Q. What did he do there?

5 A. He used to wash trays in the bakery.

6 Q. And how long -- well, how long did he work at
7 Sher-Del Foods?

8 A. Maybe three, four, five years.

9 Q. Did he leave there before you did or did he leave
10 when they closed?

11 A. He was gone.

12 Q. So he worked there -- and what did he do during
13 that time? Did he wash trays during the entire
14 three to five years he was there?

15 A. Yes.

16 Q. And does washing trays mean specifically what it
17 says, just wash the trays in the bakery?

18 A. Yes, but there were three, four hundred of them.

19 Q. Okay. And why did he leave there?

20 A. Must have got another job or something.

21 Q. Do you know where he went to work after that?

22 A. No. He got in the concrete business.

23 Q. And what do you mean by got in the concrete

1 business?

2 A. That's what he does now. He's a concrete
3 finisher.

4 Q. What does a concrete finisher do?

5 A. After the concrete is poured in your driveway, he
6 comes and finishes .

7 Q. Like smooths it out?

8 A. Yes.

9 Q. But generally speaking, that's what happens,
10 right?

11 A. Yes.

12 Q. And did he go into business on his own or did he
13 work for someone?

14 A. He's always worked for somebody.

15 Q. Who did he work for then, do you know?

16 A. He works for Profile Concrete. There's another
17 one in there but I don't know the name of it, and
18 now he works for Ferry Concrete.

19 Q. F-E-R-R-Y?

20 A. I think so, yes.

21 Q. And do you know how long he's worked for Ferry
22 Concrete?

23 A. I would say five, six years.

1 Q. You said there was a place before that, how long
2 had he worked there?

3 A. Probably seven, eight, ten years.

4 Q. Where was the other place located?

5 A. They're all out in Lockport.

6 Q. And is he a union worker?

7 A. No.

8 Q. And is concrete done in the winter?

9 A. Some.

10 Q. Can you just tell me generally?

11 A. They'll do inside work, a pole barn or something
12 like that.

13 Q. And is he often laid off in the winter?

14 A. Yes.

15 Q. And what, if any, type of work has he done during
16 the layoff periods?

17 A. To my knowledge, none.

18 Q. And is Patrick Howells a personal friend of
19 Robert Seibert?

20 MS. BAHAS: Object to the form.

21 THE WITNESS: I don't know. He knows him. I don't
22 know if you call that a personal friend.

23 BY MS. GRECO:

1 Q. How did he meet him?

2 A. Through me.

3 Q. When did he meet him through you?

4 A. Oh, I have no clue the date or year. I have no
5 clue.

6 Q. Well, you started working there in 1999, so it
7 would be some point after that?

8 A. Correct.

9 Q. To the best of your knowledge, does he socialize
10 with the Seiberts?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: No.

13 BY MS. GRECO:

14 Q. Does he socialize with Keegan Roberts?

15 A. No.

16 Q. Would you describe them as close friends?

17 A. I don't know about close, but they're friends.

18 Q. Work friends, meaning at work?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Yes, they're friends.

21 BY MS. GRECO:

22 Q. The same way you would describe yourself as a
23 friend of theirs, is that true?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: I know Bob and Diane a lot better than
3 Patrick does.

4 BY MS. GRECO:

5 Q. And is Patrick Howells a trained meat cutter?

6 A. No.

7 Q. Did you ever teach him to cut meat?

8 A. I taught him how to cut deer.

9 Q. Would you consider deer meat?

10 A. Yes.

11 Q. I mean, when did you teach him how to cut deer?

12 A. Maybe ten years ago, something like that.

13 Q. What were the circumstances under which you
14 taught him?

15 A. I asked Bob. He wanted to learn how to cut some
16 deer because he moved out in the country and he
17 was going to cut deer in his garage out there.
18 So he wanted to learn how to cut deer, and that's
19 when I taught him.

20 Q. You said that was about ten years ago?

21 A. At least.

22 Q. Do you have a better estimate of when it was?

23 A. No.

1 Q. Do you know when he moved into the country, how
2 old he was?

3 A. He's been in the country a good ten years.

4 Q. Where's the country?

5 A. Newfane.

6 Q. Is your son a hunter?

7 A. No.

8 Q. And when you asked Robert Seibert if you could
9 teach your son how to cut deer meat, what did he
10 say?

11 A. No problem at all.

12 Q. How did you set about how to teach him to do
13 that?

14 A. He would come in there and if I'd go back to cut
15 deer that day, I'd take him back there with me
16 and show him how.

17 Q. How long did it take you to teach him how to cut
18 a deer?

19 A. Every time he was there, I taught him a little
20 more.

21 Q. You said he moved about ten years ago.

22 A. He used to come in from Newfane.

23 Q. What I'm saying is, when he came in from Newfane,

1 how long did it take you to teach him how to cut
2 a deer?

3 A. He's still learning.

4 Q. He's still learning. It took him ten years to
5 cut a deer?

6 A. Oh, no. He hasn't been there to cut deer in --
7 ten years ago he was there for one winter and
8 that's the only time. He hasn't been there
9 since.

10 Q. Are you personal friends with Darcy Black? By
11 that, I mean outside of work?

12 A. I was invited to her wedding.

13 Q. And where did you get that invitation?

14 A. Either came in the mail or Darcy, either/or, I
15 don't recall.

16 Q. Do you recall her handing it to you at work?

17 A. Very possible, but I don't recall it.

18 Q. But other than knowing her at work, did you do
19 anything with her outside of work?

20 A. No.

21 Q. I'm trying to determine separate from work being
22 in the workplace, did you ever do anything with
23 Darcy Black?

1 A. No.

2 Q. And your son Christopher, separate from work, do
3 you have any knowledge of him doing anything with
4 Darcy Black?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: No.

7 BY MS. GRECO:

8 Q. And your son Patrick, do you have any knowledge
9 of him doing anything with Darcy Black outside of
10 whenever he might have seen her at Black Angus
11 Meats?

12 MS. BAHAS: Object to the form.

13 THE WITNESS: No.

14 BY MS. GRECO:

15 Q. I just want to make sure. She wasn't at your
16 birthday party, she wasn't a friend of the
17 family, nothing like that, right?

18 A. No.

19 Q. You had been at Black Angus every deer season
20 since you started working at Black Angus, isn't
21 that true?

22 A. Yes.

23 Q. At any time during that deer season, other than

1 the one occasion in 2010 when you said you
2 trained your son to cut meat, meaning deer meat
3 only, did you ever see your son at Black Angus
4 Meats?

5 A. Yes.

6 Q. When?

7 A. He would stop in one or two days a week. He had
8 time to kill, he'd bring me lunch, and if I asked
9 him to do something, he'd do it.

10 Q. When you said he brought you lunch, he has a
11 full-time job, right?

12 A. Not in the winter.

13 Q. So in the winter, what does he do? Does he
14 snowplow?

15 A. No.

16 Q. What's he do?

17 A. He's got a lot of animals. He takes care of
18 them, takes care of his house.

19 Q. Anything else?

20 A. No. Takes it easy, gets his body back in shape
21 from the summer.

22 Q. So when you say he'd come in one or two days a
23 week, that would be to have lunch with you?

1 A. To have lunch, yes. He'd bring lunch. I didn't
2 ask him to, but he'd bring it.

3 Q. What did he bring you?

4 A. Usually go to Ted's and bring me hot dogs.

5 Q. So you would take your half hour break and spend
6 it with him.

7 A. Correct.

8 Q. Did he ever walk around and do physical work
9 after your lunch period with you or chitchat with
10 employees?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: He knew people there and he knew I had
13 a hernia that I wouldn't go get taken care of, so
14 he didn't want me to lift. And him and me had a
15 good relationship and he'd come in too and
16 sometimes he'd go when are you getting through
17 and I'd say another hour and he'd wait for me and
18 we'd go and have a beer.

19 BY MS. GRECO:

20 Q. When he would wait for you, did anyone have a
21 problem at Black Angus Meats with him staying in
22 the area where you were and just waiting for you
23 for that hour or would he just go to his car?

1 A. Both. But Bob never had a problem with it. If
2 he did, he never said anything about it.

3 Q. That's why I'm asking.

4 A. I'm trying to tell you.

5 Q. Would employees talk to him when he was there?

6 A. Yes.

7 Q. Did anyone ever tell you that was disruptive to
8 work, meaning that shouldn't be happening during
9 working hours?

10 A. No.

11 Q. Did you ever observe him in the pack room?
12 Strike that. When you worked, were you in the
13 pack room?

14 A. I could go back there. If I had an order,
15 sometimes the girls would give me an order and
16 I'd take it back because sometimes they were
17 afraid to take them back because they'd get
18 hollered at so I'd take them back.

19 Q. Who would get hollered at?

20 A. The girls. They'd say here, take this back.

21 Q. Who would get hollered at?

22 A. If they didn't want to do it or something like
23 that.

1 Q. You just said the girls were afraid to bring it
2 in back because they would get hollered at. So
3 who would holler at them?

4 A. No. They would just say I don't want no more,
5 whoever was working back there, whether it was
6 Darcy back there, whoever was back there, you'd
7 take one back and they would say I don't want
8 anymore.

9 Q. What do you mean, I don't want anymore?

10 A. I don't want any more orders.

11 Q. Do they have the ability to say I don't won't any
12 more orders?

13 A. Oh, it was just in jest, just kidding.

14 Q. So they were afraid to go in the back?

15 A. No, they weren't afraid, but I used to take it
16 back.

17 Q. I'm trying to figure out what you said. One of
18 their jobs would be to bring it in the back, but
19 they would ask you to do it with a hernia because
20 they were afraid?

21 A. It was just a piece of paper.

22 Q. So they wouldn't want to go in the back with a
23 piece of paper?

1 A. I would take it back.

2 Q. You would leave your work as a butcher, go in the
3 back with a piece of paper because the counter
4 person didn't want to leave the counter?

5 A. Not that they didn't want to leave the counter.
6 I'd say I'd take it back.

7 Q. How often did that happen that you left your job
8 as a butcher to go bring papers in the back?

9 A. Maybe once or twice a month.

10 Q. Who would bring them back otherwise?

11 A. Whoever took the order.

12 Q. That would be a person at the counter, isn't that
13 true?

14 A. Or the people in the office. If the phones got
15 too busy in the office, the girls out front would
16 answer the phones.

17 Q. Were you ever aware of Raelean Rush not wanting
18 to go into the back in the pack room?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Never heard of that.

21 BY MS. GRECO:

22 Q. So who did you say didn't want to go in the back?
23 You said the girls, could you give me the names?

1 A. If Darcy was up front, I'd even take an order
2 back for her.

3 Q. Are you saying Darcy was afraid to go in the
4 back?

5 A. No, she wasn't afraid, but I'd take it back.

6 Q. What I'm trying to find out is, here's a company
7 where you're the meat cutter and you feel you
8 have to bring an order back to the pack room. My
9 question is, why did you feel you needed to do
10 that as opposed to have someone who's right there
11 at the counter? I mean, you had to go past the
12 counter to the back versus them who are right
13 there.

14 A. They had to go back there too. Sometimes the
15 counter would be busy, they'd be busy on the
16 counter so I would say I'll take it back. I
17 could leave my job a lot better than they could
18 leave their job to have customers standing on the
19 counter.

20 Q. Is there any way you could explain to me your
21 statement that they didn't want to go back, they
22 were afraid to go back?

23 MS. BAHAS: Objection. He didn't testify that they

1 were afraid to go back.

2 BY MS. GRECO:

3 Q. The record will speak for itself.

4 Is there any way you can explain that?

5 A. No. Sometimes if they would take an order back,
6 they would go, they'd say here's an order, we
7 don't want any more orders today. In fun. They
8 filled every order that was taken back. It
9 wasn't malicious or anything like that.

10 Q. But it was intimidating to the person having to
11 bring it back?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. Is that fair to say?

15 A. I don't think so, no.

16 Q. You were being a nice guy helping them out, even
17 though you were the meat cutter?

18 A. I was the meat cutter, but I didn't care what I
19 did. If I had to clean the toilet, I would have
20 done it. It didn't bother me.

21 Q. I'm sure your employer would care because you'd
22 be higher paid, isn't that true?

23 A. What's that?

1 Q. Nevermind. Going back to your son Patrick
2 Howells, do you know if Patrick Howells was
3 invited to Darcy Black's wedding?

4 A. Yes, he was. The whole building was invited.

5 Q. So all the employees that were working with her
6 at that time were invited, isn't that true?

7 A. Yes.

8 Q. And she came in and handed out invitations to the
9 employees including yourself?

10 A. I don't know if she handed it to me or it was
11 mailed to me, I don't recall.

12 Q. But you received an invitation?

13 A. Correct.

14 Q. And the Seiberts received an invitation?

15 A. They were there, so I assume they did.

16 Q. And both Christopher and Patrick Howells received
17 an invitation?

18 A. They were both there.

19 Q. Did your daughter receive an invitation?

20 A. She lives in Florida.

21 Q. Does she know Darcy Black?

22 A. No.

23 Q. She never worked with her?

1 A. No.

2 Q. Do you know if Jamie Lapress was at her wedding?

3 A. Yes, I drove him.

4 Q. Who did you drive to the wedding?

5 A. My son Christopher and Jamie.

6 Q. Do you know anyone else that was at the wedding
7 that I haven't mentioned already?

8 A. Just the employees there, Bob, Diane, Debbie,
9 Mark, everybody was there. I think the only one
10 that wasn't there was Sean.

11 Q. Sean Round?

12 A. Yes, he wasn't there.

13 Q. Do you know where he was?

14 A. No clue.

15 Q. Let me show you what's been marked as Exhibit
16 264-E. Do you recognize the two individuals in
17 that picture?

18 A. No.

19 Q. You don't recognize that as Keegan Roberts and
20 his wife?

21 A. I'm not used to seeing him dressed up.

22 Q. Do you recognize that as his wife?

23 A. Yes, that's his wife.

1 Q. Let me show you what's been marked as Exhibit
2 264-F, see if you recognize those individuals?

3 A. That's Keegan and Jill. I don't really recognize
4 the other two.

5 Q. Do you remember somebody named Rob Lasky?

6 A. Oh, yes.

7 Q. Does that look like him?

8 A. It's been so many years since he's been out of
9 there. Yes, it looks like him.

10 Q. Do you recognize the other guy sitting there?

11 A. No.

12 Q. Let me show you what's been marked as Exhibit
13 264-H and ask if you recognize the individuals
14 there?

15 A. Yes.

16 Q. And who are they?

17 A. Bob, Diane.

18 Q. For the record, that's Robert and Diane Seibert?

19 A. Correct, and that's Rush's parents. I don't know
20 their last name.

21 Q. Raelean Rush?

22 A. That's their parents.

23 Q. Their parents, okay. Do you recognize Raelean

1 Rush?

2 A. Yes, the blond, I'm pretty sure that's her.

3 Q. Do you recognize Regina Rush?

4 A. Yes.

5 Q. That's the two Rushes, Raelean and Regina, their
6 parents and the Seiberts?

7 A. Correct.

8 Q. Let me show you what's been marked as Exhibit
9 264-K. Do you see Debbie --

10 A. Debbie is in the black, yes.

11 Q. Do you recognize anyone else in that picture?

12 A. I think that's Bob back there, but I'm not
13 positive. This looks like Rob here. It's Darcy
14 over here. Other than that, a lot of their backs
15 are to me.

16 Q. Let me show you Exhibit 264-A. There's two
17 couples that are dancing there.

18 A. That's Bob and Diane, that's my son Patrick and I
19 don't know who he's dancing with.

20 Q. Do you recognize that as Raelean Rush?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: From the back, no.

23 BY MS. GRECO:

1 Q. Let me show you -- hang on. So you don't
2 recognize her from the back?

3 A. Not from the back, no.

4 Q. Let me show you Exhibit 264-J. Do you see the
5 woman in that same dress with the blond hair and
6 the multi-color dress?

7 A. Yes.

8 Q. Do you recognize her as Raelean Rush?

9 A. Very possible, but her head is down. It's very
10 possible. You didn't take any pictures of me?

11 Q. Let he show you 264-G. Do you recognize that
12 picture?

13 A. That's me.

14 Q. Who are you dancing with?

15 A. Probably Darcy.

16 Q. Does it look like the bride?

17 A. Yes.

18 Q. Let me show you this picture, which is Exhibit
19 264-B, ask if you recognize who's in that
20 picture?

21 A. That's Patrick and Darcy.

22 Q. Patrick Howells is dancing with Darcy Black. Let
23 me show you Exhibit 264, do you recognize who's

1 in that picture?

2 A. That's Patrick and -- I don't know who it is.

3 Q. Do you recognize that as being Darcy's mother?

4 A. No. I don't know if I ever met Darcy's mother.

5 I might have at the wedding, but I don't remember
6 her.

7 Q. Do you know what period of time -- when Mark
8 Leible started at Black Angus Meats, do you
9 recall him being in the pack room working with
10 Darcy Black?

11 A. I know he was in there. I don't know if that's
12 where he was when he started. I don't remember.

13 Q. At some point do you recall Mark Leible working
14 in the pack room with Darcy Black?

15 A. Yes.

16 Q. Do you recall Black Angus Meats how they would
17 have partners for packing?

18 A. I know two people work together, yes.

19 Q. Do you recall Darcy Black working with Aunt Ro or
20 Roseann Barr, I think her name is?

21 A. Yeah, that's Aunt Ro.

22 Q. Do you ever recall her and Roseann Barr working
23 together as packers, as a team?

1 A. No, I'm not familiar with what went on back
2 there. I wasn't back there.

3 Q. So did you ever teach Mark Leible how to cut
4 meat?

5 A. I must have.

6 Q. Do you have a specific recollection of teaching
7 him how to cut meat?

8 A. No.

9 Q. Do you have a specific recollection of teaching
10 anyone how to cut meat at Black Angus Meats?

11 A. Jamie.

12 Q. But I think you said you don't recall when you
13 taught him that?

14 A. No.

15 Q. Did you ever consider yourself in management at
16 Black Angus Meats?

17 A. No.

18 Q. Did anyone at Black Angus Meats ever tell you
19 that when the owners Robert Seibert and Diane
20 Seibert or Keegan Roberts were not there, that
21 you'd be a person in charge?

22 A. No.

23 Q. Do you think employees considered you to be a

1 person in charge?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: The only thing they would consider me
4 is on the meat end. I knew what had to be done.
5 Like I said to you before, wrap this, don't wrap
6 that, but I was not a manager. I had enough of
7 that, I didn't want it anymore.

8 BY MS. GRECO:

9 Q. Did you ever consider -- strike that. Did you
10 ever learn in any way that Debbie Negrych was a
11 supervisor or manager or a person that employees
12 could come to with complaints?

13 MS. BAHAS: Object to the form.

14 BY MS. GRECO:

15 Q. You can answer.

16 A. It wouldn't do -- if I could answer it this way.
17 It wouldn't do any good to go to Debbie or go to
18 me because there was nothing we could do if there
19 was a problem. You had to go to management and
20 everybody knew who management was.

21 Q. If no one was there from management and you were
22 present and Debbie was present, could someone
23 come to you and would you know enough to relay it

1 to management?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. Do you know what I mean? If someone came to you
5 and said I have this serious complaint, what
6 would you do?

7 A. If one of the managers wasn't there, everyone
8 knew how to get a hold of Bob's phone number and
9 Diane's phone number and Keegan's phone number is
10 on the wall. If anyone had a complaint, they
11 could have called them at any time.

12 Q. But if someone told you, would you have told them
13 to go and call them directly?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. You can answer.

17 A. Yes.

18 Q. Do you agree with this statement that Thomas
19 Howells is a meat cutter who often directs and
20 supervises other employees?

21 A. No.

22 Q. If I told you that Black Angus Meats submitted a
23 statement to the EEOC, that's the federal agency

1 that investigates complaints of discrimination,
2 and states that Thomas Howells, a meat cutter who
3 often directs and supervises other employees,
4 would you disagree with that?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: I let people know what has to be done.
7 When something comes in, like if ten boxes of
8 chicken comes in, I would say this one, this has
9 to be wrapped, that has to be wrapped. I would
10 inform them that way, but I was not in
11 management.

12 BY MS. GRECO:

13 Q. Did you -- would it be fair to say that an
14 employee could believe that you directed and
15 supervised other employees?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. You can answer.

19 A. If you call what I just said management, then
20 it's management, but I was not a manager.

21 Q. What I said was, would you agree that you
22 directed and supervised other employees?

23 MS. BAHAS: Object to the form. Asked and answered.

1 BY MS. GRECO:

2 Q. Can you answer that? Do you know what the word
3 supervise means?

4 A. I understand. I'm not an idiot.

5 Q. That's what I'm asking.

6 A. Like I said to you before, if something, if
7 twenty boxes of something come in and they'd say
8 what has to be wrapped, they would come to me and
9 say what's got to be wrapped. I go this, this
10 and this. So they, if I didn't tell them what to
11 wrap, they wouldn't know what to wrap.

12 Q. So it's fair to say that employees would come to
13 you for direction?

14 A. On what to wrap, yes.

15 Q. Did they come to you for direction on other
16 things? During the whole time that you've been
17 employed there, have employees come to you about
18 anything other than what to be wrapped?

19 A. I don't understand.

20 Q. Have they ever come to you about anything else
21 other than what to be wrapped?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. You can answer.

2 A. No.

3 Q. Did you ever tell anyone that they could not come
4 to you with any complaints that they had?

5 MS. BAHAS: Object to the form.

6 BY MS. GRECO:

7 Q. You can answer.

8 A. No.

9 Q. Would it be fair to say that if Black Angus Meats
10 said you were a person that directed and
11 supervised other employees -- strike that. Do
12 you agree or disagree with the statement that
13 you, Thomas Howells, as a meat cutter often
14 directed and supervised other employees?

15 MS. BAHAS: Objection. Asked and answered.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. Like I said to you, I'll say it again. If
19 something come in, I know what had to be wrapped.
20 When they're not waiting on the counter, the
21 girls up front or whoever is up front, they say
22 what's got to be wrapped. I'd say this has to be
23 wrapped or that's got to be wrapped.

1 Q. Let me show you page three --

2 MS. BAHAS: Were you done answering?

3 THE WITNESS: Yes.

4 BY MS. GRECO:

5 Q. Do you want it read back so you can finish?

6 A. No.

7 Q. Exhibit 215, and this is not a document you
8 wrote, this is one that was submitted by the
9 attorneys for Black Angus Meats to the EEOC. You
10 can tell that because it's written on their
11 letterhead, Damon and Morey to investigators for
12 the Equal Employment Opportunity Commission. Do
13 you see that?

14 A. Yes.

15 Q. Now, it says here starting with this sentence;
16 Robert Seibert, owner; Diane Seibert, owner;
17 Keegan Roberts, owner; Thomas Howells, meat
18 cutter; Debbie Negrych, open front counter
19 manager and Nicole Seibert, closer slash front
20 counter manager, often directed and supervised
21 other employees. Do you see that?

22 A. Yes.

23 Q. Do you disagree with that?

1 A. No.

2 Q. Was Debbie Negrych considered the front counter
3 manager?

4 A. She was the lead girl.

5 Q. Okay. So if individuals had complaints, they
6 could go to her also?

7 MS. BAHAS: Object to the form.

8 BY MS. GRECO:

9 Q. You can answer.

10 A. But there would be no reason to go to Debbie.

11 Q. My question is, she was a lead person, could
12 individuals go to her with questions they had or
13 issues they had?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: Questions about the store or what's got
16 to be done they could go to her, but as far as a
17 complaint or something like that, they wouldn't
18 go to Debbie.

19 BY MS. GRECO:

20 Q. What does a front-end manager mean to you?

21 A. Front-end manager, probably the manager of the
22 front.

23 Q. And if Black Angus Meats said that Debbie Negrych

1 was the front-end manager, would you agree with
2 me individuals could think they could go to her?

3 MS. BAHAS: Object to the form.

4 BY MS. GRECO:

5 Q. You could answer.

6 A. I would call her the lead girl. I never heard of
7 her as front-end manager.

8 Q. You didn't report to her, right?

9 A. Myself?

10 Q. Yes.

11 A. No.

12 Q. Who did you report to?

13 A. Bob, Keegan or Diane.

14 Q. Do you know who Debbie reported to?

15 A. Bob, Keegan or Diane.

16 Q. Let me show you what Black Angus Meats also
17 provided to the EEOC. Exhibit 209 and I'd like
18 to refer you to Bates page DEF0052 under Debbie
19 Negrych, do you see that?

20 A. Okay.

21 Q. Do you know what her title is -- which Defendants
22 says her title is?

23 A. Okay.

1 Q. What is it?

2 A. Front counter manager.

3 Q. Okay. Did the people that worked at the front or
4 packers report directly to Diane Seibert or did
5 they go through Debbie Negrych?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Say that again.

8 BY MS. GRECO:

9 Q. When Diane Seibert wasn't there, would people go
10 to Debbie Negrych?

11 A. If they had a question on something to be done,
12 yes.

13 Q. You've been in management for a number of years.
14 What does the name manager imply?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: To me, the manager runs the show.

17 BY MS. GRECO:

18 Q. So a front-end manager could mean to people that
19 this is the person who runs the front end of the
20 business, if you know?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: No, I don't know. But you could ask
23 anybody in that building if they considered

1 Debbie a manager and they're going to tell you
2 no.

3 BY MS. GRECO:

4 Q. So what Black Angus told the EEOC -- let's assume
5 that Black Angus Meats did provide this to the
6 EEOC, which we can document, are you saying that
7 they told an untruth when they gave this to the
8 EEOC?

9 MS. BAHAS: Object to the form.

10 BY MS. GRECO:

11 Q. You can answer.

12 A. I would say Debbie is the lead girl.

13 Q. Who do you think would know more, you or Black
14 Angus Meats as to what Debbie Negrych's role was?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. Black Angus Meats.

19 Q. Do you have a reason to disagree with them saying
20 that she was a front-end manager?

21 A. No.

22 Q. Did Debbie Negrych ever complain to you about her
23 earnings?

1 A. No.

2 Q. Did she ever share with you anything relative to
3 her earnings, information I mean?

4 A. No.

5 Q. Did you ever discuss your situation with her --
6 strike that. Did you ever discuss your earnings
7 or -- did you ever discuss your earnings or
8 anything about them with Debbie Negrych?

9 A. No.

10 Q. Were you aware of Debbie Negrych being upset
11 because she was not receiving raises?

12 A. No.

13 Q. Do you know anything about whether Black Angus
14 Meats paid health insurance premiums for Debbie
15 Negrych?

16 A. I know she's on their policy. How it works, I
17 don't know.

18 Q. How did you become aware she's on the policy?

19 A. Because it was available for anyone that wanted
20 it.

21 Q. Was Darcy Black on their policy?

22 A. I have no idea.

23 Q. How would you know Debbie Negrych was and not

1 know Darcy Black wasn't?

2 A. I know Debbie was in the hospital, she had
3 serious problems and she told me what the
4 insurance paid.

5 Q. What do you mean what the insurance paid?

6 A. What they paid and what she had to pay.

7 Q. Who's they?

8 A. They, Blue Cross and Blue Shield.

9 Q. How did you know that was Black Angus Meats Blue
10 Cross and Blue Shield as opposed to --

11 A. Because Debbie told me it was.

12 Q. She said it was her policy at work?

13 A. Correct.

14 Q. Were you ever aware of Darcy Black requesting
15 health insurance and being told it wasn't
16 available to her?

17 A. No.

18 Q. If that was true, would that concern you?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: It's none of my business.

21 BY MS. GRECO:

22 Q. Were you ever authorized to receive any special
23 arrangement of an additional payment by doing any

1 other services at Black Angus Meats?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. Do you understand what I'm saying?

5 A. I know what you're saying, but I don't understand
6 what you're saying.

7 Q. What I'm trying to say, Sean Round, for example,
8 was offered the opportunity to make extra pay
9 every month by handing out flyers and generating
10 business for Black Angus Meats.

11 A. I know he used to hand flyers out. How it worked
12 or how he got paid, I have no clue.

13 Q. This is in addition to him doing it normally, he
14 was given this opportunity. Were you ever given
15 an opportunity to make extra money?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. You can answer.

19 A. I don't know. What would I do?

20 Q. I don't know, that's why I'm asking you.

21 A. I was a meat cutter. I retired.

22 Q. I understand you are a retired meat cutter, but
23 you obviously had connections with people that

1 worked there. Did you ever -- did anyone ever
2 from Black Angus Meats ever say to you there was
3 any other way you could make money other than
4 cutting meat?

5 A. No.

6 Q. Were you on time for work at Black Angus Meats?

7 A. Never been late a day in my life there.

8 Q. Do you recall a time when Sean Round was writing
9 down he arrived at work at a certain time but in
10 fact was coming in later?

11 A. No, I'm not aware of it.

12 Q. Do you recall having a conversation with Darcy
13 Black about Sean Round putting the wrong time on
14 his time slip?

15 A. No.

16 Q. Is it fair to say you'd be able to see the time
17 slips because they were out in the open, meaning
18 you could lift it up and see it?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: If I wanted to I could, but I had no
21 reason to.

22 BY MS. GRECO:

23 Q. Did it annoy you when people were late for work?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: It was none of my business.

3 BY MS. GRECO:

4 Q. As a prior manager, was it annoying to you?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: No.

7 BY MS. GRECO:

8 Q. Did Sean Round have any impact on your work if he
9 was late?

10 MS. BAHAS: Object to the form.

11 THE WITNESS: No.

12 BY MS. GRECO:

13 Q. Is it fair to say that if Mark Leible was late
14 for work and he worked with Darcy Black as a
15 partner, if that could impact her job?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: No.

18 BY MS. GRECO:

19 Q. Do you know anything about packing meat?

20 A. Yes, I know a lot about it.

21 Q. Let's talk about how it works at Black Angus.

22 You cut the meat and it gets wrapped.

23 A. Correct.

1 Q. Then either that wrapped meat or the frozen
2 wrapped meat is packed pursuant to orders.

3 A. Correct.

4 Q. And then that either goes to people picking it up
5 or goes out to be delivered.

6 A. Correct.

7 Q. And deliveries are done at certain times of the
8 day.

9 A. Yes.

10 Q. When Mr. Seibert comes in to pick up the
11 deliveries to bring them, they should be ready
12 for him?

13 A. They're not always ready, but he comes in to take
14 them and sometimes he has to wait.

15 Q. But he desires them to be ready when he comes in
16 -- strike that. Is your knowledge that he would
17 prefer them to be ready when he comes in to get
18 them, isn't that true?

19 A. Yes.

20 Q. And is it fair to say that if Mr. Leible and Miss
21 Black are supposed to arrive at seven o'clock and
22 Mr. Leible arrives at seven-twenty, that when Mr.
23 Seibert comes to pick up the packs, one person is

1 twenty minutes behind?

2 MS. BAHAS: Object to the form.

3 BY MS. GRECO:

4 Q. True or not?

5 A. I'm sure it would make a difference, yes.

6 Q. You were a manager at --

7 A. Sher-Del Foods.

8 Q. Sher-Del, and part of that management job was
9 making sure the meats were wrapped appropriately
10 and on time, isn't that true?

11 A. Yes.

12 Q. Is it fair to say that an individual who was
13 supposed to be working packing packs, if they
14 arrived to work often untimely, that that could
15 affect the job?

16 A. I would say no, it wouldn't affect it.

17 Q. You told me Mr. Isenberg would not tolerate it
18 and if someone did it three times, he'd fire
19 them.

20 A. Yes.

21 Q. And you told me that at Sher-Del they wouldn't
22 tolerate that and after three times, even with
23 the union, they would fire them, right?

1 A. Yes.

2 Q. Yet it's acceptable at Black Angus Meats for that
3 to happen?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. I don't know if it's acceptable. It's whatever
8 happens when they get called in the office, which
9 has happened. What happens in there, I don't
10 know.

11 Q. But do you recognize as a past plant manager that
12 it's important to be at work on time?

13 MS. BAHAS: Object to the form.

14 BY MS. GRECO:

15 Q. I'm asking your opinion.

16 A. I think it is.

17 Q. Isn't it fair to say because that impacts not
18 only that person's job, but other people's jobs?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. As a manager, do you know that?

22 A. I would say yes.

23 Q. Were you aware of Sean Round being permitted to

1 come in late on Saturdays or leave early during
2 the summer and fall of each year because he plays
3 in a football league?

4 A. I know he left.

5 Q. And you mean left to play football?

6 A. Correct.

7 Q. And based on your observation, did management
8 have a problem with that?

9 A. Evidently not.

10 Q. Do you know Brett Myers?

11 A. Yes.

12 Q. And do you ever recall him disappearing during a
13 shift and other individuals having to replace him
14 such as Darcy Black?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: No.

17 BY MS. GRECO:

18 Q. Is it fair to say it could have happened, you
19 just don't know?

20 MS. BAHAS: Object to the form.

21 THE WITNESS: No, I don't think so. He wasn't a
22 smoker, so he didn't go outside.

23 BY MS. GRECO:

1 Q. Do you know if he used his cell phone to call
2 people?

3 A. I have no clue.

4 Q. That's what I'm trying to say. Would you be the
5 person that would be aware of that, or is that
6 something the person replacing him would be
7 aware?

8 A. I used to see him there, and I would know if he's
9 on the phone or not. I'm not saying he was never
10 on the phone.

11 Q. Do you recall Darcy Black being brought to the
12 counter to replace Brett Myers because he
13 couldn't be located?

14 A. No.

15 Q. Are you saying it couldn't happen, or you just
16 don't know?

17 A. I'm not aware of it.

18 Q. Okay. Did anyone ever indicate to you that Darcy
19 Black was a bad employee?

20 MS. BAHAS: Object to the form.

21 THE WITNESS: No.

22 BY MS. GRECO:

23 Q. Did anyone indicate to you that -- strike that.

1 Did anyone ever suggest to you at Black Angus
2 Meats that Darcy Black took too many breaks?

3 A. No.

4 Q. Do you think if she had taken too many breaks or
5 was a bad employee, it would be something you
6 would have been aware of?

7 MS. BAHAS: Object to the form.

8 THE WITNESS: I'm sure I would have heard it.

9 BY MS. GRECO:

10 Q. Did Debbie Negrych ever complain to you that she
11 wasn't able to take Saturdays off?

12 A. Never.

13 Q. Were you aware of males being scheduled for
14 Saturdays off at the end of the month?

15 A. Anybody that wanted a day off put their name on
16 the calendar, and I've never heard anybody be
17 denied a day off.

18 Q. Were you aware of a time when Darcy Black and
19 Debbie Negrych put their names on a calendar on a
20 Saturday to get off and both were denied?

21 A. No.

22 Q. Is that something you would be aware of?

23 A. I think one of them would have said something to

1 me.

2 Q. And if, in fact -- would you agree with me, there
3 would be no reason they would be denied if they
4 put their name on the calendar, at least one of
5 them would have gotten it?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: No, I see no reason.

8 BY MS. GRECO:

9 Q. When Robert Seibert would see you, would he say
10 hello to you?

11 A. Always.

12 Q. Just say hi or hi Tommy?

13 A. He'd come over to my table and say hello.

14 Q. How about Keegan Roberts, when he would see you,
15 would he come over to you and say hi?

16 A. Yes.

17 Q. Do you think they were both very respectful to
18 you?

19 A. Yes.

20 Q. And you think that going over and acknowledging
21 someone is a sign of respect?

22 MS. BAHAS: Object to the form.

23 THE WITNESS: Yes.

1 BY MS. GRECO:

2 Q. Would you agree with me that Mr. Keegan Roberts
3 coming over to you and saying hello to you, that
4 that's a sign of respect to you also?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: Yes.

7 BY MS. GRECO:

8 Q. Was there a policy at Isenberg Meats regarding
9 the use of cell phones during business hours?

10 A. It wasn't a problem, but I don't know if there
11 was -- it was never abused. There might have
12 been a policy there, but I don't know. I don't
13 have a cell phone so I couldn't tell you.

14 Q. Do you ever recall people using their cell phones
15 during working hours, not during breaks but
16 during working hours at Isenberg Meats?

17 A. If someone got a phone call, they'd pick it up
18 and say I'll call you back or something like
19 that, yes.

20 Q. Do you know if anyone used their cell phones
21 during the working hours at Black Angus Meats?

22 A. Yes.

23 Q. Who?

1 A. I think anyone who has a cell phone I've seen on
2 it.

3 Q. And did anyone say they couldn't use it?

4 A. I never heard it.

5 Q. Were you aware of individuals receiving text
6 messages at Black Angus -- strike that. Do you
7 know what a text message is?

8 A. I heard of them. I don't know what it is.

9 Q. Would it ever be appropriate for a male employee
10 to say to a female employee at work that she's
11 got a nice ass?

12 A. It wouldn't be appropriate, no.

13 Q. Did you ever hear any male employee say to a
14 female employee at Black Angus Meats that she has
15 a nice ass?

16 A. No, I haven't.

17 Q. Were you aware of Raelean Rush being told she has
18 a nice ass by Sean Round?

19 A. No.

20 Q. If, in fact, that occurred, would you agree with
21 me that that could be harassment?

22 A. Yes.

23 Q. Would it ever be appropriate for a male employee

1 to tell another male employee after a female
2 walked by that she's got a nice ass?

3 A. It wouldn't be appropriate.

4 Q. Would that also be a form of sexual harassment?

5 A. I would say so, yes.

6 MS. BAHAS: Object to the form.

7 BY MS. GRECO:

8 Q. Would you agree with me, it would be demeaning to
9 the woman?

10 A. Yes. You just don't say that.

11 Q. Did you ever hear any male employee comment
12 regarding a female employee that her headlights
13 were on?

14 A. Her what?

15 Q. Headlights were on.

16 A. I think I know what you mean, no.

17 Q. In reference to her breasts?

18 A. Yes. No.

19 Q. Would that ever be appropriate in the workplace?

20 A. That wouldn't be tolerated anyplace I worked.

21 Q. You hope it wouldn't be tolerated, right?

22 A. It wouldn't be. I've never seen it tolerated.

23 Q. So if there was a male manager present at Black

1 Angus Meats when Sean Round, or any other male
2 said to a female that she's got a nice ass, what
3 would you expect them to do?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: I would say fire them on the spot,
6 that's what I would do.

7 BY MS. GRECO:

8 Q. And if a male employee said in the presence of --
9 if a male employee, if a male employee said to a
10 female employee in the workplace in the presence
11 of a manager or supervisor that her headlights
12 are on, or a customer's headlights are on, what
13 would you expect the manager to do?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. You can answer.

17 A. Take them in the office and terminate them.

18 Q. Would it ever be appropriate for a male employee
19 to say relative to a female customer, oh, look at
20 that cleavage?

21 A. That wouldn't be appropriate either.

22 Q. And in your opinion, as a long term manager,
23 would that be basis for termination?

1 A. Yes.

2 Q. And in your opinion, would that be the basis of
3 sexual harassment relative to a customer?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: I would say it would be, yes.

6 BY MS. GRECO:

7 Q. Do you have any personal knowledge of any African
8 American individual who was interviewed by anyone
9 at Black Angus Meats?

10 A. I don't have any knowledge of anybody being
11 interviewed there. The only thing I could tell
12 you is, anybody that came in would get an
13 application. When it was filled out, whatever
14 color they were, whatever race they were, they
15 would go in the office with it. What happened
16 after that, I couldn't tell you.

17 Q. When you say they would go in the office, the
18 person at the counter would go in with it?

19 A. They would take it in and say Diane or Bob,
20 there's someone here with an application. That
21 person would leave the office and the person
22 looking for work would stay.

23 Q. You're saying every person that came in was

1 brought in to Diane Seibert's office or if Diane
2 Seibert was there, she would see every person who
3 had an application?

4 MS. BAHAS: Object to the form.

5 MS. GRECO: Strike that. Could you read back his
6 answer?

7 (Whereupon, the above-requested answer was
8 then read back by the reporter.)

9 BY MS. GRECO:

10 Q. I'm trying to understand what you mean by they.
11 Who's they?

12 A. Instead of saying a person, they would be the
13 applicant.

14 Q. So you observed, every time you saw someone come
15 in and fill out an application, that that person
16 would go in the back room --

17 A. In the office.

18 Q. In the office and speak with someone in
19 management, whether that be Diane Seibert, Robert
20 Seibert or Keegan Roberts, is that true?

21 A. Yes.

22 Q. Would it surprise you to learn that an African
23 American -- strike that. Would it surprise you

1 to learn that an African American individual who
2 had applied on more than one occasion was never
3 brought to see anybody in management?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. The only thing I could say is, if they were
8 denied, at the time we didn't need help.

9 Q. If there was a help wanted sign in the window and
10 the person responded to that sign and filled out
11 an application, would there be any reason for
12 them not to be brought in to see one of the
13 management people?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: No.

16 BY MS. GRECO:

17 Q. Based on your experience and your observations
18 from where you were working during the morning in
19 the butcher block, individuals would be brought
20 back to management if they filled out an
21 application and if there was a help wanted sign?

22 A. Correct.

23 Q. Were you aware of any instructions that were

1 given to Darcy Black or any person who would have
2 worked at the front counter at any time as to
3 what they were to do with applicants?

4 A. No.

5 Q. When did you become aware that Darcy Black's
6 children have an African American father?

7 MS. BAHAS: Object to the form.

8 THE WITNESS: Well, she used to bring her kids there.

9 BY MS. GRECO:

10 Q. And did anyone ever discuss with you Darcy
11 Black's children at Black Angus Meats?

12 A. No.

13 Q. Did anyone ever make any negative comments
14 regarding Darcy Black's children at Black Angus
15 Meats?

16 A. Not to me.

17 Q. Did anyone ever tell you that Darcy Black's
18 children were always in trouble?

19 A. Darcy.

20 Q. Other than Darcy?

21 A. No.

22 Q. Were you ever aware of Jamie Lapress making jokes
23 about Darcy Black's children?

1 A. No.

2 Q. Would it ever be appropriate in the workplace for
3 Jamie Lapress to joke about Darcy Black's
4 children for any reason?

5 A. No.

6 Q. Were you ever aware that -- strike that. Were
7 you ever aware that Darcy Black's -- strike that.
8 Did Debbie Negrych ever tell you that she talked
9 to Jamie Lapress because he was making jokes
10 regarding her children?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: No.

13 BY MS. GRECO:

14 Q. Did Debbie Negrych ever tell you that she told
15 Jamie Lapress that Darcy Black didn't find it
16 funny and he needed to stop?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: No.

19 BY MS. GRECO:

20 Q. Do you know any reason why Robert Seibert and
21 Diane Seibert in a letter to the EEOC would state
22 that Jamie Lapress would joke about Darcy Black's
23 kids, not because they were black but because

1 they were always in trouble. Debbie did tell
2 Jamie Lapress that Darcy Black didn't find it
3 funny and he needed to stop?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: No.

6 BY MS. GRECO:

7 Q. Do you have any reason to believe that what they
8 said -- strike that. Do you know why they said
9 that in their statement to the EEOC?

10 MS. BAHAS: Object to the form.

11 THE WITNESS: I have no idea.

12 BY MS. GRECO:

13 Q. Before you said if something was going on at
14 Black Angus Meats, you would be aware of it.

15 MS. BAHAS: Object to the form.

16 THE WITNESS: If I was there.

17 BY MS. GRECO:

18 Q. So no one ever brought to your attention that
19 Jamie Lapress was making jokes about Darcy
20 Black's children?

21 A. No.

22 Q. Would it ever be appropriate for Jamie Lapress to
23 do that?

1 A. Knowing Jamie the way I do, I would say no.

2 Q. Do you believe Jamie Lapress would ever do that?

3 A. No.

4 Q. Let me show you what's been marked as Exhibit

5 211. This is a letter from Diane Seibert and

6 Robert Seibert. Do you see the signatures?

7 A. Yes.

8 Q. Have you ever seen the signatures before?

9 A. Just on my paycheck.

10 Q. Do you recognize those as their signatures?

11 A. I recognize Diane's, not Bob's.

12 Q. Does she normally sign your paycheck?

13 A. Yes.

14 Q. Are your paychecks at Black Angus computer made

15 or are they handwritten?

16 A. Computer.

17 Q. And do you see it's on Boulevard Black Angus

18 letterhead?

19 A. Correct.

20 Q. Can you see it's dated January 29, 2011?

21 A. Correct.

22 Q. It's addressed to Miss Sanchez?

23 A. Yes.

1 Q. And do you see that the exhibit I showed you
2 before on the Damon and Morey letterhead, that
3 was addressed to Miss Sanchez also?

4 A. Okay.

5 Q. And she's an equal employment opportunity
6 commission investigator?

7 A. Okay.

8 Q. I'd like to refer you now to this part of this
9 paragraph that says, last paragraph on Bates
10 DEF0034, it says Jamie denies referring to
11 Darcy's children as niggers. He would joke about
12 her kids not because they were black but because
13 they were always in trouble. Debbie did tell
14 Jamie that Darcy didn't find it funny and he
15 needed to stop. Do you see that?

16 A. Yes.

17 Q. Do you have any knowledge of that?

18 A. No.

19 Q. Do you know why Bob Seibert and Diane Seibert
20 would put that in a letter to the EEOC?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: No.

23 BY MS. GRECO:

1 Q. Do you recall that after Darcy Black left
2 employment, that Diane Seibert and Robert Seibert
3 met with staff members at Black Angus Meats
4 regarding it?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: No.

7 BY MS. GRECO:

8 Q. Did they ever meet with you regarding Darcy
9 Black's complaint of discrimination, harassment,
10 hostile environment?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: No.

13 BY MS. GRECO:

14 Q. They never talked to you about that?

15 A. No.

16 Q. So before coming here today, no one has ever
17 talked to you about this action?

18 A. No.

19 MS. BAHAS: With the exception of counsel.

20 BY MS. GRECO:

21 Q. Did anyone at Black Angus Meats ever speak to you
22 about it?

23 A. No.

1 Q. Do you recall being in a meeting with Jamie
2 Lapress where Robert Seibert and Diane Seibert
3 were present and they discussed Darcy Black's
4 complaints?

5 MS. BAHAS: Object to the form.

6 BY MS. GRECO:

7 Q. You can answer.

8 A. No.

9 Q. Would it concern you if Jamie Lapress admitted he
10 made jokes about Darcy Black's children?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: Yes, it would. It would bother me.

13 BY MS. GRECO:

14 Q. Did you ever speak to Jamie Lapress as to whether
15 or not he ever made any derogatory remarks
16 regarding Darcy Black's children?

17 A. No.

18 Q. Did you know Raelean Rush and Regina Rush?

19 A. I knew both of them.

20 Q. Do you believe that -- strike that. Were you
21 aware Raelean Rush dated an African American
22 male?

23 A. Yes.

1 Q. How did you become aware of that?

2 A. Because he came in the store.

3 Q. And when was that, do you recall?

4 A. I have no clue.

5 Q. Was it during the time Darcy Black was there?

6 A. Very possible.

7 Q. Were you aware that Regina Rush dated an African
8 American male?

9 A. No.

10 Q. And were Raelean and Regina Rush friends with
11 Darcy Black?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. If you know.

15 A. I would say yes.

16 Q. And do you believe that because Raelean Rush and
17 Regina Rush dated African American males, that
18 Darcy felt a connection to them because their
19 children were biracial?

20 MS. BAHAS: Object to the form.

21 THE WITNESS: I don't know. I have no opinion. What
22 someone else does, I don't care.

23 BY MS. GRECO:

1 Q. Do you think Darcy Black just could have been
2 friends with them because they were nice people?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: We're all nice people there.

5 BY MS. GRECO:

6 Q. If Jamie Lapress made jokes about Darcy Black's
7 children, would you consider him to be a nice
8 person?

9 MS. BAHAS: Object to the form.

10 BY MS. GRECO:

11 Q. You can answer.

12 A. No. I wouldn't consider him a nice person, no.

13 Q. Now, you saw what the owners of Black Angus Meats
14 said to the EEOC, that he admitted making jokes
15 about Darcy Black's children. You still today
16 sitting here believe he's a nice person?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: If I heard him say it, I would say no.

19 BY MS. GRECO:

20 Q. So the fact that Robert and Diane Seibert said
21 this to the EEOC makes you doubt it?

22 MS. BAHAS: Object to the form.

23 BY MS. GRECO:

1 Q. Do you understand what I'm saying?

2 A. I don't know.

3 Q. As a manager for all of those years, when
4 management makes the statement to a federal
5 agency that an employee made statements, jokes
6 about another employee's children, does that give
7 you any concern?

8 MS. BAHAS: Object to the form. Asked and answered.

9 BY MS. GRECO:

10 Q. You can answer. This is a signed statement by
11 both of them.

12 A. I don't think it's funny, no.

13 Q. Do you still think Jamie Lapress is a nice
14 person?

15 MS. BAHAS: Objection to form. Asked and answered.

16 BY MS. GRECO:

17 Q. You can answer, if you can based on your
18 experience.

19 A. The business I've done with Jamie and working
20 with him and everything, yes, I think he's a nice
21 person.

22 Q. So he treated you with respect?

23 A. Everybody there does.

1 Q. Treats you with respect?

2 A. Correct.

3 Q. But you can't speak to how he treats my client,
4 could you?

5 MS. BAHAS: Object to the form.

6 THE WITNESS: I wasn't there that much.

7 BY MS. GRECO:

8 Q. Fair to say you can't speak to how he treats my
9 client, Darcy Black?

10 MS. BAHAS: Object to the form.

11 THE WITNESS: Correct.

12 BY MS. GRECO:

13 Q. And if, in fact, he made comments about her
14 children, you would agree with me he didn't treat
15 her well?

16 MS. BAHAS: Object to the form. Asked and answered
17 multiple times.

18 BY MS. GRECO:

19 Q. You can answer.

20 A. I don't know what answer you want. I really
21 don't know what you want me to say.

22 MS. BAHAS: Tell the truth, to your knowledge.

23 THE WITNESS: I never heard anything said.

1 BY MS. GRECO:

2 Q. I didn't ask you if he said it. I said if, in
3 fact, he made statements, jokes about her
4 children, would you agree with me, that that
5 would be inappropriate in the workplace?

6 MS. BAHAS: Asked and answered multiple times.

7 BY MS. GRECO:

8 Q. You can answer.

9 A. I wouldn't approve of it, no.

10 Q. If you were his manager and you learned that,
11 what would you do based on your years of
12 management experience?

13 A. Probably terminate him.

14 Q. Were you aware of Sean Round making comments to
15 Raelean Rush and/or Regina Rush relative to their
16 African American boyfriend that they would be
17 better off with a white guy?

18 A. No.

19 Q. Would it ever be appropriate for a Caucasian
20 employee or any employee to say to a female
21 employee relative to their African American
22 boyfriend that she would be better off with a
23 white guy?

1 A. No.

2 Q. Do you consider that statement to be racially
3 offensive?

4 A. Yes, I would say yes.

5 Q. And if you heard a white employee say that to a
6 female employee who was dating an African
7 American male, what, if anything, would you do as
8 a manager?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: I wasn't manager.

11 BY MS. GRECO:

12 Q. I know, but in your experience as a manager,
13 what, if anything, would you do?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: I would take it to a higher level, I'd
16 run it by them, my superiors.

17 BY MS. GRECO:

18 Q. Would you make a recommendation, like when you
19 were the plant manager, would you make a
20 recommendation regarding termination sometime?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: It depends on the employee. If the
23 employee was a headache, yes, I would, but if it

1 was a first time thing, no.

2 BY MS. GRECO:

3 Q. What if that same employee said with regard to
4 the white female dating an African American male
5 that she needs to be with one of her own kind?

6 MS. BAHAS: Object to the form.

7 BY MS. GRECO:

8 Q. Would that be racially offensive?

9 A. Yes, I would say so.

10 Q. If the individual made that comment, would you
11 recommend they be terminated if you were a
12 manager?

13 MS. BAHAS: Object to the form.

14 THE WITNESS: I really don't know. You're asking me
15 something that I have no control over and I
16 really don't know if it happened.

17 BY MS. GRECO:

18 Q. I'm asking you to assume it happened, and as a
19 manager, with your many years of experience as
20 plant manager, what, if anything, would you do?

21 A. I wouldn't stand for anything. When I was a
22 plant manager, I didn't take guff or anything
23 from anybody.

1 Q. So if someone engaged in this conduct, you would
2 either terminate them or recommend they be
3 terminated?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. Yes.

8 Q. If a white employee said to a female employee, a
9 white male employee said to a white female who's
10 dating an African American male that he was using
11 her to get her name because black men always
12 cheat and he probably has a lot of girlfriends,
13 if you learned that as a manager, what, if any,
14 action would you take?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. I really don't understand the question.

19 Q. Assume you're the manager and you learn or hear
20 that a white male employee said to a white female
21 employee who was dating a black man that her
22 boyfriend was using her to get her name because
23 black men always cheat and he probably has a lot

1 of girlfriends, what, if anything, would you do?

2 A. Nothing, because it's none of my business.

3 Q. Do you think that would be offensive to the white
4 female dating the African American male?

5 A. Possibly.

6 Q. Do you think there's a presumption because he's
7 black he cheats?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. I don't think blacks cheat any more than whites.

12 Q. Would it ever be appropriate for a white male
13 employee to say to a white female employee dating
14 an African American male, that her boyfriend was
15 using her to get her name because black men
16 always cheat and he probably has a lot of
17 girlfriends?

18 MS. BAHAS: Objection. Asked and answered.

19 THE WITNESS: I think I did answer it.

20 BY MS. GRECO:

21 Q. Would it ever be appropriate for that to be said
22 in the workplace?

23 A. I would say no.

1 Q. Okay. If you were a manager --

2 A. We're there to work.

3 Q. And there are all these policies regarding
4 discrimination, are there not?

5 MS. BAHAS: Object to the form.

6 BY MS. GRECO:

7 Q. As a manager, you're aware that there are
8 policies regarding discrimination in the
9 workplace, are you not?

10 MS. BAHAS: Where?

11 BY MS. GRECO:

12 Q. Everywhere, right?

13 A. Yes.

14 Q. At U.S. Meats, were there policies regarding
15 discrimination?

16 A. Yes.

17 Q. That follow the federal laws?

18 A. Yes.

19 Q. In your experience as a manager at Sher-Del
20 Foods, did you become aware that there were laws,
21 both federal and state, that protected employees
22 with regard to discrimination, harassment,
23 retaliation and hostile environment based on a

1 person's age, sex, religion, race or association
2 because of race, did you become aware of that?

3 A. I was aware of it, but fifty years ago and
4 forty-five years ago, you didn't hear of this
5 stuff.

6 Q. Well, were you aware of it when you were at
7 Isenberg Meat?

8 A. Yes.

9 Q. And that Isenberg Meat, if that situation I just
10 told you about occurred, what would happen?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: First of all, it wouldn't happen there
13 because it was all men.

14 BY MS. GRECO:

15 Q. Okay. So if they made comments about an
16 individual being a Jew and made inappropriate
17 statements about Jewish people, what would happen
18 at Isenberg Meats?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. You can answer.

22 A. If who made it?

23 Q. Any employee made a discriminatory --

1 A. Made it to who?

2 Q. To a Jewish employee in a negative way, what
3 would happen at Isenberg Meats?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. The only three Jewish people that were at
8 Isenberg's were the owners and nobody had a
9 problem with the owners.

10 Q. Okay. What I'm saying to you, do you have any
11 understanding, is it ever appropriate to make
12 comments relative to an individual's race in the
13 workplace?

14 A. No.

15 Q. Is it ever appropriate to make comments relative
16 to a person dating an individual of the African
17 American race when it's a white individual dating
18 him?

19 A. No.

20 Q. Is it fair to say there's no place for that in
21 the workplace, right?

22 A. Correct.

23 Q. And that it's management's obligation to enforce

1 the law and to stop it when that conduct occurs,
2 right?

3 A. Correct.

4 Q. If you were a manager, would you take action to
5 stop it?

6 A. Yes.

7 Q. Let me show you Exhibit 211. Again, this is the
8 letter signed by Robert Seibert and Diane Seibert
9 to the investigator Miss Sanchez of the EEOC.
10 See here where it states, Raelean Rush and Regina
11 Rush were both college students who worked for us
12 for several years. Do you see that?

13 A. Yes.

14 Q. They both had terrific lovely personalities and
15 the customers loved them. Both dated African
16 Americans and Darcy felt a connection to them
17 because her children were biracial. Do you see
18 that?

19 A. Yes.

20 Q. And then it says, Sean did make a comment to
21 Raelean about her boyfriend using her for her
22 good credit score and other things.

23 MS. BAHAS: Is that a question?

1 BY MS. GRECO:

2 Q. Would it ever be appropriate for Sean Round to
3 make a comment to Raelean Rush about her African
4 American boyfriend using her for her good credit
5 score and other things?

6 A. Would it be appropriate?

7 Q. In the workplace?

8 A. I don't know if management knew about it or
9 something like that, no. But if it's just two
10 people talking, I don't know.

11 Q. Well, what I'm saying to you is, if the person
12 was offended by it, should management take
13 action?

14 A. Yes.

15 Q. Would it ever be appropriate for an employee at
16 Black Angus Meats -- strike that. Would it ever
17 be appropriate for anyone at Black Angus Meats to
18 refer to black customers as Bob's nigs?

19 A. It wouldn't be appropriate, no.

20 Q. Were you aware of Jamie Lapress referring --
21 strike that. Were you ever aware of Jamie
22 Lapress stating that he has to deliver to Bob's
23 nigs?

1 A. Who has to?

2 Q. Were you ever aware of Jamie -- of Sean Round
3 saying that he has to deliver to Bob's nigs?

4 A. No, I never heard that.

5 Q. Were you ever aware of Jamie Lapress saying that
6 Bob's nigs were dirtying up the parking lot?

7 A. No.

8 Q. You said you didn't work in the pack room, isn't
9 that true?

10 A. Correct.

11 Q. Would there be any circumstances when anyone
12 should ever refer to any African American
13 customer of Black Angus Meats as a nig?

14 A. No.

15 Q. Do you know what nig is an abbreviation for?

16 A. Yes.

17 Q. What is it an abbreviation for?

18 A. Negro.

19 Q. Did you ever hear the term nigger?

20 A. Yes.

21 Q. Did you ever hear anyone at Black Angus Meats use
22 that term?

23 A. No.

1 Q. Would it ever be appropriate -- could the word
2 nigs refer to nigger?

3 A. Yes.

4 Q. Did you ever hear anyone at Black Angus Meats
5 state in reference to African American males --
6 strike that. Did you ever hear anyone at Black
7 Angus Meats state relative to African American
8 customers in these or similar words, how could
9 they have nice cars and get food stamps?

10 A. No.

11 Q. Did you ever hear Mr. Lapress, Mr. Round or any
12 employee at Black Angus Meats state in these or
13 similar words regarding African American
14 customer, how could they have nice cars and get
15 food stamps?

16 A. No.

17 Q. Did you ever hear Mr. Lapress or Mr. Round state
18 relative to African American customers how come
19 they have nice clothes and get food stamps?

20 A. No.

21 Q. Did you ever hear Nicole Seibert or anyone else
22 employed at Black Angus Meats state when a large
23 African American individual with food stamps came

1 into the store to purchase fillet mignon or strip
2 steak why can't they get out and work?

3 A. No.

4 Q. Were you ever aware of Mr. Lapress saying on
5 multiple occasions that Robert Seibert called him
6 on the phone, telephone and told him his nigs are
7 dirtying up the parking lot?

8 A. No.

9 Q. Would you agree with me that referring to African
10 American individuals as nigs would be offensive
11 to an individual who has African American
12 children?

13 A. Even if they didn't, it would be offensive.

14 Q. Would you agree with me that making references
15 that are derogatory to African Americans would be
16 offensive to an individual whose children were
17 African American?

18 A. It's not appropriate.

19 Q. Did it ever come to your attention that this
20 conduct was going on?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: Never heard if it was.

23 BY MS. GRECO:

1 Q. Do you recall an incident regarding a paper towel
2 holder with Mr. Lapress and Miss Black?

3 A. No.

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. Were you present for any incident involving a
7 paper towel holder that involved Mr. Lapress and
8 Miss Black?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: No.

11 BY MS. GRECO:

12 Q. Did anyone ever tell you that Mr. Lapress asked
13 Darcy Black if she could break into a paper towel
14 holder?

15 A. The only thing I know about the paper towel
16 holder is a day, two days, three days after the
17 incident, Keegan came to me and asked me about
18 it.

19 Q. And can you tell me as best you can recall what
20 your conversation was with Keegan Roberts?

21 A. I don't know anything about it. He asked me one
22 day and then he asked me the next day and I says
23 I'm not aware of anything of that nature that

1 happened.

2 Q. Let me show you what's been marked as Exhibit
3 215, which is, once again Black Angus Meats
4 counsel's letter to the EEOC. I like to refer
5 you to page identified as DEF0036. I'd like you
6 to look over here. Mr. Roberts investigated
7 complainant's complaint as soon as she brought
8 concern to his attention. The situation
9 allegedly occurred directly behind the front
10 counter near where the meat cutter Thomas Howells
11 stands. Mr. Roberts immediately approached Mr.
12 Howells and Mr. Howells explained that he had not
13 seen Mr. Lapress come to the front counter
14 area -- I'm sorry, that he had seen Mr. Lapress
15 come to the front counter area to wash his hands.
16 After washing his hands, Mr. Lapress realized
17 that the paper towel dispenser was empty and
18 according to Mr. Howells, Mr. Lapress asked if
19 complainant, that would be Miss Black, could help
20 him get it open. Complainant responded by
21 saying, why do you think I could do that. Is it
22 because I have two black kids. Mr. Lapress
23 looked at complainant, meaning Miss Black, with a

1 look of disbelief, stated that he didn't mean
2 anything like that and immediately walked away.

3 Did you ever tell anyone that?

4 A. No.

5 Q. Do you know why Black Angus Meats would tell that
6 to the EEOC?

7 A. No.

8 Q. Did you ever learn that Mr. Lapress told Mr.
9 Roberts that he asked for Miss Black's assistance
10 because she's larger than he is and he thought
11 she might be able to push on it to get it open or
12 assist in some manner?

13 MS. BAHAS: Object to the form.

14 THE WITNESS: I'm not aware of that.

15 BY MS. GRECO: .

16 Q. Did you ever learn that Miss Black complained
17 that Mr. Lapress asked her if she could break
18 into the paper towel holder and when she said no,
19 he said you have two black kids, so you must know
20 how. And she responded that her children do not
21 steal, they don't break into stuff and asked him
22 why he would say that, and he replied because
23 they were niggers?

1 MS. BAHAS: Object to the form.

2 THE WITNESS: I doubt very much that Jamie would say
3 that.

4 BY MS. GRECO:

5 Q. Really?

6 A. Yes.

7 Q. That's based on what?

8 A. What I know of him.

9 Q. Okay.

10 A. He's a hard worker. He isn't stupid. He has no
11 reason to say something like that.

12 Q. But you don't know, do you, because you don't
13 have biracial children, do you?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: You're asking me if it happened or my
16 opinion and I'm trying to tell you.

17 BY MS. GRECO:

18 Q. I'm asking you, would you believe he would ask
19 her to break into a paper towel dispenser?

20 A. No, I don't believe that.

21 Q. The fact that your employer said in here that Mr.
22 Roberts did an investigation and Mr. Roberts said
23 that Mr. Lapress told him that he asked her to

1 break into the paper towel holder because she was
2 a large person, do you still think he didn't say
3 it?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: That's the first I heard of this.

6 BY MS. GRECO:

7 Q. So what I'm saying is, you have a blind faith in
8 Mr. Lapress, isn't that true?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: No. I just -- he's not -- why would he
11 say that to her. He liked Darcy.

12 BY MS. GRECO:

13 Q. Why would Darcy say he said it if he didn't?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. How long has she worked there?

17 A. How long did Darcy work there?

18 Q. Yes.

19 A. I couldn't tell you. More than a year, I know.

20 Q. That's all you think she worked there?

21 A. I said more than a year. So more than a year
22 could be five, six, seven, I don't know.

23 Q. Do you have any reason to believe she was

1 untruthful?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: I don't have any reason to believe

4 she's untruthful.

5 BY MS. GRECO:

6 Q. So an investigation needs to be done, isn't that

7 true?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. Strike that. Do you have any reason to believe

11 she was lying when she said he said that to her?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. You can answer.

15 A. I don't know why she would say it.

16 Q. Do you believe when she says it, she's a truthful

17 person, was saying the truth?

18 MS. BAHAS: Object to the form.

19 THE WITNESS: She didn't say it to me.

20 BY MS. GRECO:

21 Q. She complained that that occurred. Do you have

22 any reason to believe she was being less than

23 truthful when she said it?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. You can answer.

4 A. I have no idea what her thoughts or anything is.

5 I have no clue.

6 Q. Do you believe she's a truthful person?

7 MS. BAHAS: Object to the form. Asked and answered.

8 BY MS. GRECO:

9 Q. You can answer.

10 A. I think if she was a hundred percent truthful, we

11 wouldn't be here today.

12 Q. What does that mean?

13 A. Because I just don't think anything like that

14 ever happened.

15 Q. Meaning you don't think he asked her to break

16 into a paper towel holder?

17 A. No, I don't.

18 Q. The fact that he allegedly admitted it to Mr.

19 Roberts doesn't change your mind about his

20 character, is that true?

21 MS. BAHAS: Object to the form.

22 BY MS. GRECO:

23 Q. I just need to know.

1 A. My own opinion, I don't think he said it. I'm
2 not saying that's wrong, I don't think he said
3 it.

4 Q. You don't think he said it to Mr. Roberts, you
5 think Mr. Roberts is lying, is that true?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: I'm not saying anybody is lying.

8 BY MS. GRECO:

9 Q. This was submitted by the attorneys for Black
10 Angus Meats, and they say Jamie Lapress admitted
11 that he asked Darcy Black to break into a paper
12 towel holder, right?

13 A. Yes.

14 Q. And you say you don't believe that?

15 A. No.

16 Q. So you don't believe Mr. Roberts?

17 MS. BAHAS: Objection.

18 BY MS. GRECO:

19 Q. Or do you think Mr. Roberts is truthful?

20 MS. BAHAS: Object to the form.

21 BY MS. GRECO:

22 Q. You can answer.

23 A. I don't know what you want me to tell you. The

1 only thing is, I don't believe Jamie said it. I
2 didn't say he didn't say it, I don't believe he
3 said it, okay.

4 Q. So even if he told you that he, in fact, asked
5 her to break into a paper towel holder dispenser,
6 you wouldn't believe him?

7 MS. BAHAS: Object to the form.

8 BY MS. GRECO:

9 Q. Would he have to tell you himself to believe it?

10 MS. BAHAS: Objection to form.

11 THE WITNESS: Yes.

12 BY MS. GRECO:

13 Q. So he would have to say to you I called her kids
14 niggers for you to believe it, isn't that true?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. If he said he called her kids what you said, I
19 wouldn't believe it, even if he told me that.

20 Q. Okay. Did you ever discuss with Debbie Negrych
21 anything relative to the paper towel incident?

22 Let's call it the paper towel incident.

23 A. Did I discuss it with Debbie?

1 Q. Yes.

2 A. No.

3 Q. Did you discuss it with anyone?

4 MS. BAHAS: Except with counsel.

5 BY MS. GRECO:

6 Q. Not legal counsel, but anyone, anyone that you
7 worked with, whether that's Robert Seibert, Diane
8 Seibert. You said Keegan you spoke to about it?

9 A. Keegan spoke to me about it.

10 Q. You engaged in a conversation with him about it.

11 A. He asked me about it and I told him it's Greek to
12 me, I don't know what you're talking about.

13 First I knew about it is when Keegan came to me.

14 And where I work too, you can't see the paper
15 towel dispenser so it's not like I was there and
16 I seen it. Where my table is, I can't see the
17 paper towel dispenser.

18 Q. Can you see the wrapping table?

19 A. It's right to my left.

20 Q. Do you know where this incident occurred?

21 A. Well, the only paper towel dispenser in there is
22 up front in the deli, where the girls slice the
23 deli.

1 Q. And then there's a paper towel dispenser in the
2 wash room, right?

3 A. Correct.

4 Q. Do you recall anything about Jamie having a
5 problem with a paper towel dispenser before you
6 learned about it from Keegan Roberts?

7 A. No.

8 Q. So he never stood where you were and said can
9 anybody open a paper towel dispenser?

10 A. I wouldn't have heard it if he said it.

11 Q. But you didn't hear him say that?

12 A. No.

13 Q. Do you know how it came about that Darcy Black
14 was no longer working at Black Angus Meats?

15 A. I know she had another job.

16 Q. Really? How do you know that?

17 A. From Debbie.

18 Q. What did Debbie tell you?

19 A. That her brother got her a job in the school
20 system.

21 Q. Was she working at that job at the time she was
22 working at Black Angus Meats?

23 A. I think she might have been.

1 Q. Do you know why Darcy Black had to get a second
2 job?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: Maybe the same reason I used to work
5 two jobs, for more money.

6 BY MS. GRECO:

7 Q. Were you aware of her requesting -- strike that.
8 Were you aware there came a time when she didn't
9 have health insurance for herself, not for her
10 children because they had other health insurance,
11 or her husband who had health insurance, but for
12 her herself?

13 MS. BAHAS: Objection to form.

14 BY MS. GRECO:

15 Q. Were you aware there came a time when she needed
16 health insurance for herself?

17 MS. BAHAS: Object to the form.

18 THE WITNESS: I don't know anything about Darcy's
19 health insurance or anything.

20 BY MS. GRECO:

21 Q. Would you agree with me if she needed health
22 insurance and it was available to other employees
23 at Black Angus Meats, it should have been

1 available to her?

2 MS. BAHAS: Object to the form.

3 THE WITNESS: I don't know if it was available to all
4 employees. I know some employees had it. You're
5 asking me to say something that I don't know
6 about.

7 BY MS. GRECO:

8 Q. Assume there's testimony that Black Angus Meats
9 paid forty percent of the health insurance cost
10 for individuals and the individual had to pay
11 sixty percent, such as Mark Leible and other
12 individuals, would there be any reason, based on
13 your management experience, that it should be
14 available to someone like Mark Leible but not
15 available to Darcy Black?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. You can answer.

19 A. I don't see any reason.

20 Q. Were you ever aware that Darcy Black had to get a
21 second job, not get rid of the first job, but get
22 a second job because she needed health insurance
23 coverage?

1 MS. BAHAS: Objection. Asked and answered.

2 BY MS. GRECO:

3 Q. Are you aware of that?

4 A. No.

5 Q. Are you aware of Darcy Black working nights after
6 she left Black Angus Meats having a job that
7 started at six-thirty in the evening?

8 A. After she left Black Angus?

9 Q. Yes.

10 A. When she left Black Angus, I know nothing about
11 Darcy.

12 Q. Did Debbie Negrych tell you that she knew Darcy
13 Black had to get a second job and that she was
14 working after she left Black Angus six-thirty at
15 night, beginning six-thirty at night at another
16 job?

17 MS. BAHAS: Object to the form.

18 BY MS. GRECO:

19 Q. You can answer.

20 A. The only thing I know is approximately three to
21 four weeks, maybe two weeks, two, three, four
22 weeks before Darcy left Black Angus, she had
23 another job in the school system from her

1 brother. That much I knew.

2 Q. Did you know she had that job for -- she had that
3 job for approximately seven months?

4 A. No.

5 Q. And Miss Negrych didn't tell you that she had
6 that second job for seven months?

7 A. I don't know if Miss Negrych even knew.

8 Q. You said Miss Negrych told you --

9 A. Three to four weeks, not seven, eight months.

10 Q. What I'm saying to you, did you assume that Darcy
11 Black was looking for a different full-time job?

12 A. Usually when someone leaves a job, they leave it
13 to benefit themselves or for more money or
14 something like that.

15 Q. Do you think Darcy Black quit her job?

16 A. Yes.

17 Q. Did you ever see the letter she wrote saying she
18 couldn't tolerate the environment anymore?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. Did you -- did anyone ever tell you why Darcy
22 Black left her employment?

23 A. All I knew, she had another job.

1 Q. Did anyone at Black Angus Meats in management
2 ever tell you why Darcy Black left her job?

3 MS. BAHAS: Object to the form. Asked and answered.

4 BY MS. GRECO:

5 Q. No. I said did anyone in management ever tell
6 you why Darcy left her job?

7 MS. BAHAS: Object to the form.

8 THE WITNESS: It's none of my business why she left.

9 BY MS. GRECO:

10 Q. Did anyone ever tell you why Darcy Black left her
11 job?

12 MS. BAHAS: Object to the form.

13 BY MS. GRECO:

14 Q. You told me you think she left for another job, a
15 better job, right?

16 A. I would assume. You don't leave one job and go
17 to another job for less.

18 Q. So is it fair to say that was an assumption?

19 A. Yes.

20 Q. Would you agree with me that if someone had a
21 full-time job plus a part-time job, that they
22 wouldn't leave that job unless they were going to
23 get paid at least a combination of both of them,

1 right? You wouldn't go for lesser money if you
2 needed money, isn't that true?

3 MS. BAHAS: Object to the form.

4 THE WITNESS: The only thing I can tell you is this.
5 Darcy wasn't fired or Darcy didn't get laid off.

6 BY MS. GRECO:

7 Q. How do you know she wasn't fired?

8 A. Because she went in and gave her notice.

9 Q. How do you know what the notice said?

10 MS. BAHAS: Object to the form. He didn't testify
11 that he knows what the notice said.

12 BY MS. GRECO:

13 Q. How do you know what the notice said?

14 A. I don't.

15 Q. Do you know what constructive discharge means?

16 A. Yes.

17 Q. What does it mean?

18 A. I don't know. I don't want to say the wrong
19 thing.

20 Q. Tell me what you think it means.

21 A. No.

22 Q. Do you have any understanding -- do you have any
23 understanding after all of those years in

1 management of what a constructive discharge is?

2 A. No.

3 Q. Do you agree with me that conditions at work can
4 be intolerable sometimes?

5 MS. BAHAS: Object to the form.

6 BY MS. GRECO:

7 Q. You can answer.

8 A. I've never witnessed it.

9 Q. If Miss Black's children were biracial and
10 someone was allowed to call them a nigger, would
11 that be offensive?

12 A. But it wouldn't be allowed.

13 Q. Well, you believe it wouldn't be allowed because
14 you believe Jamie would never say it, right?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: That's my opinion.

17 BY MS. GRECO:

18 Q. You're saying it shouldn't be allowed, isn't that
19 fair?

20 A. Correct.

21 Q. But if it was allowed and no action was taken,
22 would it be fair to say that an employee could
23 just say I can't take it here anymore?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. You can answer.

4 A. The only thing I can say to you is this. If it
5 was such a hostile environment and everything,
6 why was every one of us invited to her wedding
7 and we were all best of friends and stuff.

8 That's just my question to you.

9 Q. Let me ask you this. Do you know when she got
10 married?

11 A. When she was working there.

12 Q. Did you ever hear of someone that invites all the
13 people like at a party, when you have a party in
14 the school, you invite everybody in the
15 classroom?

16 MS. BAHAS: Object to the form.

17 BY MS. GRECO:

18 Q. Did you ever hear of that, people doing that
19 because they don't want to offend anyone?

20 MS. BAHAS: Object to the form.

21 BY MS. GRECO:

22 Q. Yes or no?

23 A. If it was a hostile environment, I wouldn't

1 invite them.

2 Q. Answer the question. Did you ever hear of anyone
3 inviting all the people they work with because
4 they don't want to offend people?

5 MS. BAHAS: Object to the form.

6 BY MS. GRECO:

7 Q. You can answer.

8 A. No.

9 Q. That's not something you would do?

10 A. No.

11 Q. And you weren't aware of anyone else doing it?

12 A. No.

13 Q. As you sit here today, do you believe Darcy Black
14 ever wrote a letter to the owners saying that her
15 children were called niggers and she can't deal
16 with it?

17 MS. BAHAS: Object to the form.

18 MS. GRECO: Could you read the question back. Listen
19 to the question, see if you can answer.

20 (Whereupon, the above-requested question was
21 then read back by the reporter.)

22 THE WITNESS: I never heard that. If I --

23 BY MS. GRECO:

1 Q. Hold on one second. You answered it. Let me
2 show you what's been marked as Exhibit 195.
3 These were documents provided to us by Black
4 Angus Meats. Do you see the numbers on the
5 bottom?

6 A. Yes.

7 Q. DEF, that means they came from Black Angus Meats.
8 I'd like you to refer to the number on the bottom
9 that says DEF, I think it's 0048. Could I see
10 that for a minute? Yes, it's up here on the top,
11 DEF0048. I'd like to read it to you.

12 Dated 5/19/2010. Bob and Diane, I am
13 writing you this because I have a hard time
14 talking about what happened at work. I can deal
15 with issues that have to do with me, I get
16 emotional then I get over it. But when someone
17 can look at me and call my kids niggers, I can't
18 deal with that. My kids might be a handful, but
19 they are mine and don't deserve to be called that
20 by one of my co-workers, so I'm giving you my two
21 week notice. Thank you for all you've done for
22 me, Darcy Black.

23 MS. BAHAS: Is there a question?

1 BY MS. GRECO:

2 Q. Is that the first time you've ever become aware
3 of that letter?

4 A. First time I've ever seen it.

5 Q. That's part of her personnel records that we
6 received from Black Angus Meats.

7 A. Okay.

8 Q. Have you ever seen any letter of resignation
9 other than this letter?

10 A. No.

11 Q. Is she stating in this letter that she cannot
12 continue to work there because her children were
13 referred to as niggers?

14 MS. BAHAS: Are you asking him to say what the
15 document says?

16 BY MS. GRECO:

17 Q. I want to know if he understands after all his
18 management years.

19 A. I understand what's written here.

20 Q. Did anyone ever tell you that's the reason she
21 said she was leaving?

22 MS. BAHAS: Object to the form.

23 THE WITNESS: No.

1 BY MS. GRECO:

2 Q. Did anyone ever tell you that she felt she had to
3 leave her job even though she did not have
4 another full-time job?

5 A. No.

6 MS. GRECO: Could we have a two minute break?

7 (Whereupon, a short recess was then taken.)

8 BY MS. GRECO:

9 Q. Did you ever say to anyone, any female employee
10 at Black Angus Meats does the carpet match the
11 drapes?

12 A. No.

13 MS. GRECO: I have no further questions.

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I HEREBY CERTIFY that I have read the foregoing 306 pages and that, except as to those changes set forth in the attached errata form(s), they are a true and accurate transcript of the testimony given by me in the above-entitled action on February 9, 2018.

THOMAS C. HOWELLS

Sworn to before me this

_____ day of _____ 2018.

Notary Public.

1 STATE OF NEW YORK)

2 SS:

3 COUNTY OF ERIE)

4

5 I, Valerie White, a Notary Public in and for
6 the State of New York, County of Erie, DO HEREBY
7 CERTIFY that the testimony of THOMAS C. HOWELLS
8 was taken down by me in a verbatim manner by
9 means of Machine Shorthand, on February 9, 2018.
10 That the testimony was then reduced into writing
11 under my direction. That the testimony was taken
12 to be used in the above-entitled action. That
13 the said deponent, before examination, was duly
14 sworn by me to testify to the truth, the whole
15 truth and nothing but the truth, relative to said
16 action.

17 I further CERTIFY that the above-described
18 transcript constitutes a true and accurate and
19 complete transcript of the testimony.

20

21

22

23

VALERIE WHITE,
Notary Public.

Thomas C. Howells

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